THE OBLIGATION Of Human LAWS Discussed.

By *J. H.*

Δεδιδάξμεθα ἀρχαῖς καὶ ἐξουσίαις ἀπὸ Θεοῦ τεταγμέναις τιμὴν κατὰ τὸ ἔννομον τὴν μὴ βλαπτοῦσαν ἡμᾶς ἀπονέμειν.

We are to give to Princes and the Powers that are set over us by God, such Honor and obedience as may not hurt us. *Polycarpus.*

Too rigorous were it that the breach of every Law should be held a deadly sin, a mean there is between these extremities, if so be we could find it out. *Hooker.*

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Reader,

THese Papers were prepared against *Easter* Term last year, but the Printers failed us. Nevertheless the Subject being of perpetual occasion, and so long as there is any Common-Wealth and Laws there is none can say, *I have need of thee*, I see no reason to hinder the coming out now to the same publick advantage.

The Author.

I Have perused this Discourse and do judge it will be of singular use unto all such as desire conscienti- ously to order their obedience unto Magistrates in civil things: For although it is written in the way of a defence of what was formerlymore breifly offered unto the same purpose, yet the subject matter of it is so managed, and the truth asserted in it so vindicated from the opposition of another, that the understanding Reader, will be satisfied in the proper Rule of civil things, and in the reasonableness of every Man making a Judgement of their own actions in reference thereunto.

J. O.

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THE Obligation of human Laws discussed.

CAP. I.

WE have before us a famous question, which is not only of great moment, constant use and concernment, but of so much difficulty, and doubtful dispute, as that some learn'd men of great note in the Romish Church, have judged it fit only for the Pope in *Cathedra* to determine it. I am not furnisht so much as with my own books, which are from me, and much less with so many others as it would require to inform my self,

or my Readers, in the ſeveral judgements, of all, or the cheif Doctors in the Schools, with other Divines, and Lawyers, who have written of this point. But this I take to be notorious, that there are many of very great magnitude in the Church or Schools, with multitudes of ſeveral ſorts of Divines, who have, or do hold, that humane Laws bind not the Conſcience, whereof God only is the Lord, and which can be bound by nothing but his authority, as will be confeſſed. On the contrary there be others and perhaps of no leſs, or of greater eminence and number, who yet on both ſides, when they oppoſe one another may not defend themſelves from extremity, but that there is a *mean* according to the judgement of ſober and indifferent men, to be ſought in theſe things, if we can light of it.

I muſt confeſs I ſhould very hardly expect any thing but confuſion in my own thoughts if I truſted my ſelf altogether to books, among ſuch variety. By the little I ſometimes read concerning this diſpute I muſt need ſay, it did but ſerve to leave me at a loſs, and how I have ſince retired my thoughts more into my own mind, to look upon that writing which is congenial with

us, even those principles of truth which nature and so God hath implanted in mans own heart, and having proposed from the result of all a determination so plain, and in the middle path, being careful that neither conscience should be left loose and dissolute, nor tyed by Mans command or Laws, any farther then God doth tye it, It hath pleased the reverend Author of the *friendly debate*, by an opposition in a *Post-script* to his *Appendix* to draw me out to my defence, and a farther explication, mainly of what I have in a lesser room before written.

I perceive there is an expression fell from me among others of respect, concerning the *Debater*, that hath moved him to so much indignation that I know not how I shall pacifie him, for a man shall not lightly see two or three sheets of paper written thus tetrically upon so small an occasion. *I receiv'd a case from you, a very weighty one it is, and as weightily and solidly resolved, if the casuist may be his own Judge.* So he goes on; I must confess I lookt on this person as a Man of a most modest, humble, pious, ingenuous, calm temper, and I have the same opinion as to his worth and abilities as I had, but I do not like the spirit of this *appendix*, there is in the *Apologist*

logist so much gentleness and care of offending, as hath seemed too much, On the contrary, here is in these papers such a deal of animosity, indignation, and that indeed which in women we call vixenish humour, but especially such an inveterate espousing of a party, with that disdain and contempt of every man, and thing, that appears against himself, or cause, that there is no *do* with him. Nevertheless I must needs say for my own part I am not yet converted to his opinion, but that I must think still that a *Nonconformist* who hath not taken the *Oxford* Oath, may live within five miles of a corporation and yet be *a good Christian, or Minister of Christ.*

And what is the ground for such an imprudent expression as this was, and that he should continue the justification of it? The ground of all doth lye on this *single point* as himself has it, *whether humane Laws bind the conscience*? In the resolving which point he is come here to an acknowledgement that there is *difficulty.*

He that finds none (sayes he) *may well suspect that he does not fully understand it.* And why is he so angry then, when he laid down his matter so inconsiderately in his first book; without

without any distinction or provision for any, that I should say only he was not so *reflective* as he ought, upon all the things at least, as he was to look to in so great an undertaking? Alas, that there should be so much vanity, and elation of mind, in impotent man, that if you commend him never so much, for what is worthy in him, you must give him more then he deserves, or he will accompt what is due, but a disparagement to him.

If you will praise a Man for his valour, and say he is as valiant as *Hector*, or *Judas Maccabeus*, it will not serve, unless you say also he exceeds *Hercules*, and make him wiser too withall, then *Salomon*, and all Kings. *I could be contented, to have wanted his good word* (says he) *upon condition he had not said* --What? why something that is innocently true, he names, but that which sticks, is, that I count him one more *happy* in his *expression* and other abilities then in his *depth* or *reflectiveness* on the things he offers.

Whether I have herein judged amiss, or not, I will be content to come to some tryal with him, and that I may treat with this *Post-script* in some method, it is convenient I should in the first place propose the determina-

mination of this case, or question, as I have tendred it, together with his conception, understanding or apprehension of it. In the *next* place that I should take notice of his objections against it. It is convenient then that I and he take a review of the determination which he hath proposed in the place of it. And lastly that I answer to his exceptions, either here and there occasionally as they fall in upon me, or more fully and industriously, at the end.

CAP.

CASE II.

FOr the foremoſt, I wonder the leſs that this debater does ſhow ſo much diſdainful contempt of my determination, when he is poſſeſſed with ſo much prejudice, as gives him not leave to mind the very main diſtinctions I offer him in it. After he hath therefore in the enſuing first three leaves fallen upon a paſſage of providence, which I have ſet down as proper and indeed peculiar to the matter of the Caſe, he enters the Liſt with theſe words. *This is ſufficient to ſhow what may be expected from this new undertaker, who will appear I doubt not as lame in his Reaſonings as he doth in this, and prove as unfit to determine caſes of Conſcience, as to make obſervations of providence.* I do not know what kind of guſt *one* may have of the *ſame* thing which pleaſes *another*, but it does become any ingenuous mind to think, that all

all men are not cast into the same mould, and to take heed therefore, least by censuring of that which the most of others approve, he brings his own Judgement into question, and becomes the less regarded himself for it. And really if the spleen and extravagancy, of five sides and a half, and no less of about twenty leaves in all, to no purpose but abuse of his paper, do not shew more what may be expected in this *stale* undertaker, who hath come out now this fourth time to *debate*, then that observation of mine will discover in me, I am mistaken. For my part let the determination of the case be found as solid as that observation upon the matter of it is pertinent, and I shall have no cause to be moved by his censure. But what is that which hath *moved him* thus? why, *he makes me* (saves he) *such a pittiful Gamester that I am not reflective* (here he quotes the Page wherein I have delivered that hainous word) *upon more removes then one of those many I ought to see.*—*Yet I have done my endeavour to comprehend him and to fathome the bottom of his deep discourse.* I must confess I have expresst my self in these words he quotes, I speak verily according to my thoughts, and I can't help that. But one would think by these

theſe words, we ſhould have at leaſt ſo much integrity now from this perſon, as to ſet down my determination at leaſt in my own words, being ſo few, if not made better by his, that the Reader might judge whether he does indeed look to the bottom of what I have offered, and if after theſe words he yet does not, he may be aſhamed, to expreſs himſelf thus, and ſhew ſuch a ſpirit as this is.

Well in my *caſe*, I diſtinguiſh then firſt, between the authority of the *Magiſtrate*, and of his Laws and Commands. To this purpoſe there is a diſtinction which Dr. *Feild* has, parallell with it, to wit, between *ſubjection* and *obedience*, ſubjection is that which is due or proper to the Magiſtrate, or to the authority reſiding in his perſon: Obedience is that which is due to his commands, or to the authority of his Laws. By ſubjection we are to underſtand all that which ſtands in oppoſition to reſiſtance, and ſo *ſubjection* in one verſe in the Apoſtle, is æquivalent with *not reſiſting* in the other; and the word in the Original does kindly ſerve this purpoſe. Now *ſubjection* being what is oppoſite to *reſiſtance*, and what is due to the Authority which reſides in the Magiſtrates perſon, it is

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what is, and must be always due; so that we must never resist, but be subject, because this authority always resides there. But obedience which is proper to his Laws, or commands, is not due always, because there may be some Laws, or things, commanded, devoid of Gods authority, and then if we obey them not, we do not sin. This is acknowledged, or very near it, in two cases, by this person; in a case of sin, and in a case of intollerable grievance, from whence others will follow.

The other distinction is between the obligation of the *conscience*, and of the outward Man. Let this learned person now take of his eyes from the paper, and consider but a while before he reads on, what he thinks I mean by, and to what use I put this distinction, and he may take the best conjecture whether he be not short in his *comprehension of it*. The *outward Man* let us know then is obliged by the penalty, the sword, or wrath and by Gods command not to resist, or to be *subject* in reference to his authority residing in the Magistrate himself. There are two things then you see go to the binding the outward Man, Gods command of not resisting, or being subject to the Powers,

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and the Magistrates sword, and force. If we must never or by no means resist, then the Magistrate may make us do what he will, or else we must suffer. We cannot avoid suffering but by resisting or obeying, Resist we never may, obey we must then, if we will not suffer, unless the case be in the matter of sin, wherein we all agree in one, that we must always suffer. The *Conscience* is obliged only by Gods *will*, which is the adequate Rule of Conscience. I will explain it farther. There is Gods will, and Mans will, a divine and humane Obligation. When God will have a thing to be done as well as Man, I do accompt the Conscience is bound, because the Obligation is divine: but when Man will have it done, and God requires it not, but only his will is that whatsoever be imposed, the subject however must not rebel, I do account the Obligation to the thing to be humane altogether, and the ontward Man bound only. *Jus Regis vocatur* (sayes *Grotius* I remember somewhere) *non quia Rex ita agens juste ageret sed quia ita agenti nemini liceret vim ullam opponere.* That is as much as to say there is a double right a Magistrate hath in his commands or actions; A *moral* right when he com-

commands, or *does*, those things which he ought to do, or command: or a *Political* right, (called by *Samuel* the *manner of the King*) when though he commands or does those things he ought not (or what God does not allow, but he is accountable to him for them,) yet the subject may not resist him in those commands, or acts, and deliver himself from them by force. When the Magistrate uses the first of these Rights, I account the conscience is obliged: when the second the outward man onely. The termes are used we know by grave Divines such as Bishop *Downham* (to name no other) in his tract of *Christian Liberty*: and it will be one benefit of these papers, if we can retain with good discretion, and sense, what is so usefull, as rather then be without, we shall still use though with none. And by this distinction it does appear, how all that danger which hitherto this man hath fancyed consequent to my determination, does fall away as the leaves from the trees in summer. For so long as we do all acknowledge the authority of the present Magistrate in his person with our subjection thereunto, that in no case it is lawfull to *resist*, whereby the outward man comes to be bound, so that if he

he will, and when he will, he can force it to obey by his ſword, there is not ſo much as any certain diſobedience, and much leſs is there any danger to his Government, through Inſurrection, or Rebellion, that follows from my opinion.

If in Religious things, or moral, when the Magiſtrate commands any thing againſt a mans conſcience, and the Subject does not obey, his authority nevertheleſs is preſerved, though he cannot force them in that caſe to obedience if he would: how ſhall we think but in things which are ſecular, where he can force them to obey if he will, that there is any danger to his Government, for their obeying ſuch and ſuch a Law, only becauſe they dare not to reſiſt (I mean for Gods ſake that they dare not) and not out of conſcience elſe? I would have this worthy, and intelligent, but at this time over engaged perſon, who *yet* ſees not all the *removes* which are to be ſeen in this buſineſs, for all his anger at me for my thinking ſo, to conſider whether there be not many learned Men, Writers and others, who hold that the Laws of Men do not obleige the Conſcience at all; and that they cannot, ſeeing Conſcience is Gods Throne, but the ex-

ternal man only: and does he think that all such must be so shallow that they are not able to avoid his extemporanous consequences, or that they see not the weakness of such a *Gamester* (seeing he calls himself so, for it was not I used that word) who hath not come yet so far here, as to consideration with himself? For I say, is there any Men of parts or learning thinks he, that fear God and are Christians, who hold it lawful to rebel, or to destroy all Society and Government? And if not, how comes it to pass he should not resolve with himself, that certainly if such consequences which he would fasten on me will be avoided, and denyed by those that hold that human Laws do never bind the Conscience, they may and must be denyed by me with more facility, who have determined that human Laws do with a distinction bind it, but not *infinitely* as he does.

And what is that distinction then which after these two other not comprehended by the *Debater*, does determine the question in hand? That we are to be always subject as to the Authority of the *Magistrate* himself I have said, and yet that we are not bound always to obey his commands, that is, we are not bound always in Conscience, when

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yet we are bound in the outward Man. This being said, the determining distinction concerning his Laws or Commands, which do bind, and which do not bind the Conscience is this: The commands of the Magistrate are either such as are agreeable to Gods will, or not agreeable to his will. Those that are, bind it: Those that are not, bind it not. The Reason is, because the authority the Magistrate hath to command, is derived from, and to be founded in Gods will. In the way, *The Casuist* (sayes this benign Debater) *seems to have no low opinion of his own performance, but rather thinks we may chance to be beholding to him for a new Invention. Here sayes he, is that very mean indeed for ought I know which is wanting. A great discovery! and for ought I know may any body reply that which is not wanting but the very dangerous extream into which the people are apt to run, as he is to follow those with whom I have had to deal.* As for those with whom he hath been dealing I presume it will be found there is nothing of this determination in what they have said; if & I did not esteem it uncommon, I should (I must confess) have restrained it.

Or if I did not think it considerable, I should have held my peace also. But after this scornfulness of his, why did he not present us with that *mean* which follows in the words of the Case, that the Reader might judge, whether it be any discovery indeed, or none, or whether it deserves this Mans contempt or not? For as *Cato* said of *Cicero* when he played upon the *Stoicks* opinions (which another hath noted) *Cicero* makes others laugh, but is himself ridiculous: So say I, this person strives here to offer me and my determination to contempt, but the things I have said will bear themselves out, and he does but discover hereby his own desert. What is that *mean* thenwhich follows? The words in the Case are these. "That the Laws or Commands of the Magi-"strate (even in Political and indifferent "things) does no less then bind the Consci-"ence, when he is the executioner of *Gods* "*will*, but though the *outward man* (out of the "Case of sin) may be bound if you will, the "*conscience* cannot be obleiged, and ought "to be still kept free, when he is the execu-"tioner only of his *own*. It may be the Debater will not yet be beholding to me

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for this, and he may chooſe, when perhaps others will, and take it never the leſs kindly for that. It fares with thoſe that beat their heads about notions, as it doth with Miners; they are the condemned Men, and the Gold they dig becomes others: Nevertheleſs the Man that hath been digging & finds a Veine, may ſay, what he hath found is Gold as well as another, and without pride. He doth not commend himſelf, for his commending the Gold. I think verily that that which I have here digged is the mean, the Golden mean we are to find in this caſe, and not an *extream wherein I follow any* as he ſayes: but the avoiding both extreams. The one is of thoſe who hold that human Laws do not bind the Conſcience at all: and the other ſuch as hold as this Man did when he firſt unadviſedly ſet out, and therefore will continue of the mind ſtill, that they bind indefinitely without diſcrimination, at leaſt ſo far by all means, as Dr. *Manton* his good Neighbor, and every one ſuch as he (whatſoever the breakers of other Laws may be) might be none of Chriſts Miniſters or good Chriſtians on that account.

Well! The will of God which determines the commands of Man to be obliga-

tory, or not, upon the Conſcience, muſt be conſidered in the concerns of *Religion*: in things *moral*: and in things *civil* or Political. The rule or Law of God in things Religious, is the Scripture. The rule or Law of God in things *moral* is the Light of Nature, which alſo is the will of God, as the word is. The Rule and ſupream Law which God hath appointed for things Political is the *common good*. If the Magiſtrate command any thing in *Religion* and it be not *according* to Gods word, then Conſcience cannot be bound to it as *Religious*, though the outward Man I think therein alſo is bound, if it be not againſt Gods word. If the Magiſtrate command any thing of moral concern, if it be againſt the Law of nature, or common principles of Light in Man, that is the moral Law in the heart, the Conſcience cannot be bound but muſt refuſe it. If he command any thing which is *civil* or *Political*, and it be againſt the common good, then is it not agreeable to Gods will, being not conſonant to the rule he hath commanded for civils, and conſequently the Conſcience cannot be obleiged by it upon that accompt. In the mean while ſo long as it is not againſt conſcience otherwiſe, that

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is ſo long as it is not ſin, the *outward man* is bound, and if the Magiſtrate will conſtrain a perſon to it, rather then ſuffer he will obey.

There are ſeveral books and Sermons of Miniſters about Religion, which do bind the Readers and Hearers by vertue of Gods will: but the ſupream Rule is Gods Word, unto which conſequently, if what they have ſaid; or writ, be not conſonant, the Conſcience is not bound, and according as the Conſcience of a Man is convinced, whether that which the Miniſter ſays be agreeable to the word or not, ſo is it bound, or not bound by it. The caſe is the ſame in Laws. The Magiſtrate doth give us ſuch and ſuch particular commands, or Laws. His authority he hath from God. The will of God as the ſupream Law, or Rule, in Politicalls, is, that the common good be attended and advanced. *They are Gods Miniſters attending continually upon this very thing.* So far as his Laws, or commands then are agreeable to the common good, ſo far is his Authority good, and muſt obleige the Conſcience being from God. And ſo long as a man is convinced in Conſcience,

that they are agreeable thereunto, he muſt be in Conſcience obleiged: but if he be ſincerely perſwaded that ſuch or ſuch a thing commanded, be not for the publick good, the caſe is but the ſame with what I ſaid in Religion, when the Miniſters exhortation diſagrees with the word. The Magiſtrate is but Gods *Miniſter* in Politicals, and his commands diſagreeing, with the ſupream Law, the *common good*, the Conſcience cannot be obleiged in this Caſe. Nevertheleſs, ſo long as the outward Man is in the Magiſtrates power, and the Subject may not reſiſt, he can command obedience, out of the caſe of ſin, when he pleaſes to exert his Sword.

Before I paſs off, I am made a little ſenſible how apt our queſtion may be wreſted into a diſpute about Terms. It is hardly proper to ſay this or that Law binds the Conſcience, for Conſcience is the diſcerner of my duty, and it were more proper to ſay my conſcience binds me to this Law, then that this Law binds it. It is ſcarce proper neither to ſay the Conſcience is bound, ſeeing it is the perſon is bound. Conſcience is placed in the underſtanding, and when a thing becomes a Mans duty, the *will* is obleig'd rather then the *underſtand-*

ſtanding. It is not eaſie likewiſe to apprehend how the outward man is bound with diſtinction to the Conſcience, conſidering that this obligation hath it's riſe, and vertue, from our duty of not *reſiſting*, unto which we are always bound in Conſcience. The term *Reſiſting* likewiſe is liable to diverſity of acceptation.

It is convenient therefore for me, in my way to give the ſenſe of my Terms (if it be not yet done enough) to prevent needleſs contention. By human Laws I underſtand the declaration of the will of the rightful Governor, what he would have his Subjects do, I will not alſo put in the end of Laws, *in order to the common good*, becauſe that will preſently ſpoyl the queſtion. For where the efficient is our rightful Ruler, and the Law ſerves indeed for that end, or hath it's right final cauſe alſo, there is no queſtion of its obligation. Yet if I leave out the end the queſtion indeed may be whether ſuch a declaration be a *Law*, rather then whether it *binds*. Nevertheleſs as I make a caſe of conſcience of it (and count all our Acts of Parliament Laws) it is all one in effect to me, whether you ſay, ſuch a Law binds not, or ſuch an *Act* or *Law* is no *Law*, and binds not. *Ex quo intelliges eos qui pernicioſa et injuſta populis juſſa*

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descripserint, cum contra fecerint quod polliciti pro fessiq; sint, quoduis potius tulisse quam leges, Cicero de legibus. By Conscience I understand a faculty in Man of descerning Gods Judgement concerning himself and Actions. It is more proper to say a faculty is obleiged, then an habit, or an Act; and that faculty which man hath hereunto, is charged (whilst himself is) to judge whether such a thing commanded be his duty in relation to God, or not. By obligation I understand the constitution of a due; *Obligare est jus constituere.* By obligation of the *Conscience* I understand the constituting a thing to be due from me so that if I do it not I must account or judge that God will condemn me for the neglect, or the making a thing my duty so that if I leave it undone I sin. The obligation of the *outward man* I account the constituting a thing to be due from me so as if I do it not, I may not resist, though I be punished; or I may be punished, and ought not to resist, though I could avoid both the thing, and punishment by resistance. The word, *licere*, says *Grotius* (from one line of whom, a man shall have more Instruction sometimes then from anothers book) is distinguished *in id quod impune fit*, and in *id quod vitio caret.* So must we say the word *obli-*

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gare, is distinguished into that which if we do not the thing makes us liable to punishment (*in foro humano*, or according to the law:) or that which if we do it not makes us liable to sin. That is, there is an obligation human only (which we have had before) that tyes us to obedience upon the penalty of the law: or an obligation divine also, which ties us to the duty upon the pain of Gods displeasure, & eternal condemnation. The one of these we call the obligation of the outward man, and the other of the Conscience. By resistance, lastly, I understand the repelling force with force. The word resistance, may be taken *largely* or *strictly*. *Resistitur contra Imperium agendo, aut vim vi reprimendo.* I take it in the last and strict sence. Let me yet note one thing more, when we distinguish in the obligation of human laws, between the *outward man* and the *Conscience*, we do not distinguish the outward man from the *will*, when we distinguish it from the *Conscience*. The *will* is wrought upon under both obligations, through fear of mans law, and through fear of Gods. If you divide the outward man from the *will*, you cannot bind it, but *Physically*, by putting it in Bonds and Fetters. But the obleiging it by the *will*, is binding it with an human obligation;

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and that I account too, is not morally, but *politicaly* (as I have intimated,) to wit as human laws are, *norma humani judicij*, the man who breaketh a bad law, is according to that law to be adjudged to its penalty, *and in ſenſu politico humano* is an offendor of the law ſo that if he be puniſhed by the judge, who judgeth by that law, he muſt ſubmit, yet ſeeing the Law is no other then ſuch, he is not made a *ſinner* by that breach, or to be condemned by God. To ſum up my opinion then without the terms, that thoſe that will may aſſaile me fairly in my ſence I am perſwaded as Gods *will* is not mans, ſo every command of man in indifferent things is not the command of God: but that when there is no declaration of the magiſtrates will, but it does make the thing he would have, to be due from us ſo, as he may puniſh us by his law for the not doing if he pleaſe, and we muſt bear it without defending our ſelves by force, and conſequently he may compell us to any thing not ſinful by that means: yet does not every declaration of his will, make the thing he requires to be our duty, ſo, that we are neceſſarily guilty of ſin, if it be not done; but contraily though many a man lives and

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dyes in the breach of some laws and statutes of the realm (so long as they offer no contempt to the Ruler, nor scandal to their brethren, nor resist if they be brought to suffer) they may be *good Christians* for all that (to come to our first lock which our debater) and *servants of Christ*.

And here I have no more that I know needfull to be supplyed, but onely to do this: to produce what I have in my Case it self, that the main notion I offer here, and there may appear to be the same: and to vindicate that authority which alone sufficed me then, and shall now, for my confirmation. The words which I offer in my Case are these. *Power* (say I) *is a right to rule or command. This right in the nature of the thing must arise from the grant or will of the supream Lord, which is God; without whose will (or that grant or Charter which is an act of his will) no power can be derived to any. Now that grant or will of God which constitutes any to rule, or to be his Minister, being for the peoples good, (He is the Minister of God for our good sayes the text) it must follow that whatsoever is not indeed for the peoples good, the Magistrate is not to command, because it is Gods will that he commands only for their good.*

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And if he do command any matter that is otherwise, that command hath no authority as to the Conscience at all as being without the warrant of Gods will. I know I have set down this in a few lines, but it hath been the fruit of severall thoughts and years. I thought good to confirm it with one testimony of Dr. *Taylor*, and I perceive this debater seems offended, and to accuse me of disingenuity for it, as if I had done him wrong. It is necessary therefore that I turn again to that Dr. and see; only I must say that I am glad (I must confess) that I have here such an authority as this Dr. so full for me, nevertheless Dr. *Taylor* is not (as farr as I know in a tittle) the *author* to me; but a *witness* to the light I offer. In the third Book of his Cases, and the first chapter, he comes to treat of human laws, and what obligation they pass on the Conscience. In his first rule he tells us, the Conscience is obleiged directly and actively to obey the Laws of Man. Several learned Authors, together with Nine Arguments to the contrary, are propoled, which he having very hardly assayled, comes to his next Rule, that human Laws bind not when there is any intollerable, or grievous evil in the obedience. To make out this, he proceeds

to

to a third Rule, that the Laws of our ſuperiour, that are not juſt and good, do not obleige the Conſcience, and then ſhewing what Laws are ſuch, he tells us, that a Law is unjuſt that contributes not to the publick advantage. What can be more orderly and deſireable to my purpoſe! Only yet to be more ſure, it is fit, I cite alſo ſome few of his expreſſions. *This is the limit of a Princes power, ſo far as he relates to conſcience, for beyond this the conſcience is not bound.* Again, *If a Prince make a Law that is not for the publick good, it hath no ſanction but fear, and no tye upon the Conſcience.* Again, *all ſuch things as are againſt the good of the ſubjects, the Law it ſelf declares it to be no Law, that is, to be more then the ſuperiour hath right, or leave to do.* Again, *Laws that are made to purpoſes beyond thoſe meaſures, do no ways obleige the conſcience. He is the Miniſter of God for good* (ſaith St. Paul) *otherwiſe he is not Gods Miniſter, and hath to other purpoſes none of Gods authority, and therefore cannot obleige the conſcience to an active obedience in ſuch, where his power is in incompetent to command.*

CAP.

CAP. III.

IT will be time now to come to see what he hath objected against this Determination. The proposition I am to maintain, and he to oppose, is this. That the laws of a common wealth, and particularly an act, or the acts of Parliament in this nation, that are not for the common good, do not obleige the Conscience of the subject. Though we acknowledge in the mean time, our alleadgiance and subjection to his Majesty as the executioner of the laws, that our outward man is bound still, and spared through his clemency. It is true that there is a question fallen in, who shall be judge, whether that which is commanded in a law be for the common good? and I shall be ready to speak with the *Debator* about it, in its order: but in the mean while if it were not for that, what would this reverend man

have

have had to say against the main determination.

In the first place he tells us, *that I am a notable instance of my Lord* Bacons *observation, that there is a little dry Light in the World.* I remember *Plutarch* hath a tract of self praise, and among several things he hath against it, one thing he sayes for it, that there is some cases, and particularly in the case of a just defence, a man may speak of himself, or any thing of his own, as of another. Vnder *Plutarchs* Apology, I will say I do believe this, that in this particular I am indeed an instance that there is but little dry light in the World. For let this Debater set himself to read as many books as he can, yet I suppose he may find but few, if any that determine this case altogether as I do. I know the same Light hath shone in on Dr. *Taylor* in several passages, when yet it is mixed with such abundance of other matter, that if this Man may be judge he would be ready to cite him as of opinion against me in it. There is *lumen siccum* therefore, and *lumen maceratum* indeed. I remember the distinction well, my Lord *Bacon* hath it, in his advancement. And I will say yet, that the Light which this

Debater pretends is macerated Light, Light steeped in a prejudiced mind and fetcht from the conceptions of others, and mostly perhaps from that Dr. whose clearest rayes he wont receive: When the determination which I have offered hath been beaten out from my own thoughts, and will be found that *lumen siccum* (notwithstanding his abuse) which is to be attended in this matter. *I am become a fool in glorying* (says the Apostle) *ye have compelled me.*

In the next place he produces two places of Scripture, that to the *Romans*, *Wherefore you must needs be subject not only for wrath but also for Conscience sake*, and that of Peter, *Submit your selves to every Ordinance of man for the Lords sake.* I answer, these Texts speak of *subjection* and not of *obedience*; subjection to the Authority, residing in the persons of the Magistrate, and if you will in the Government it self: not obedience which is proper to their commands. This appears from the first and second Verses. *Be subject to the powers that be. He that resisteth the power, resisteth the Ordinance of God.* The Powers no doubt are, but the Laws and Commands of men be not I hope the *ordinance of God* with this Man. *Wherefore you must needs be sub-*

ject,

ject, it is the same word and spoken in respect to the *resistance* before, and in reference to their persons: it is not *wherefore* you must needs *obey* all their particular commands for Conscience sake, when for Conscience sake we must suffer, rather then obey some of them. So likewise in *Peter*, *every ordinance of Man*, is every *human creature* in the Original, that is, submit to every sort of Governor, or Government, whether to the King as supream, or others under him. This is plain. Out of these Texts therefore may obedience arise, from the conscience of not resisting, but no direct obligation on the Conscience to obey actively can be deduced from hence. Again the Apostle tells us in these places, that the Magistrate is Gods Minister for our good, a terror to evil doers, and encourager to well doing, with the like expressions. Upon this account he can be supposed to command only for the common good, and when a Law or Command of the supream *Magistrate* is such, I deny not but it binds the Conscience no less then he. This is sufficient between us, that no *Argument* possible can be drawn from either of these places to serve his turn, seeing a Law must be supposed to be against

the common good, and yet to bind the conscience according to him. Moreover, this I must say again is most evident that obedience indefinite cannot be proved by these Texts, because some commands of the Magistrate may be evil, morally evil (as hath been intimated) and we must not obey them: or civilly evil, and then though we do obey for the Swords sake, and because we must not resist, the Conscience is not bound in such a Case.

It is therefore a pievish obstinacy in this person to persist in these following words. *We are no considering when and in what case a Law may cease to oblige and quite alter its Nature, but whether while it doth oblige and is in force it lays a tye on the Conscience or no? and to this we say yes. Laws while they are obligatory bind the Conscience. Because the Scripture saith so, and we say so indefinitely, because that is the Scriptures language also.* First its certainly false that all Laws of Men do indefinitely tye the Conscience, and therefore the Scripture doth not say so, nor can say so, which must be granted by him in the case of moral evil. Secondly this Debater is utterly lost that he would not learn of me to distinguish between the obligation of the outward

outward man, and the Conscience, an obligation *in foro exteriori sive politico, & in foro interiori sive conscientiæ.* For it is false again that he sayes we are not considering when and in what cases a Law doth cease to obleige, for this is the very thing we are considering, in respect to the Conscience, and as for the obligation of the outward Man, he hath not yet thought of it. And I say as Dr. *Taylor* hath again and again, that such a Law, as is not for the common good, hath none of Gods authority, and so ceases to be any Law as to the Conscience, when yet we being not to resist, (as is and must be often said) the outward man by the Sword may be brought to obey. Thirdly the speaking that Laws while they do obleige (or are of force) do tye the Conscience, in this Man, who hath not received yet the distinction of the obligation of the outward Man Politically, and the inward Man which is morally, is extreamly sensless, and consequently false if he understood the sense. For Laws that are obligatory or do obleige the outward man, that is are *Politically* in force, may yet be morally null, as to the Conscience, that is, obleige it not, when being not for the common good I say they are without the

authority of Gods will. Fourthly there is a manifeſt bar and contradiction in theſe words to his own determination after, if he durſt been plain in it. For here he will be ſo obſtinate to ſay ſtill that human Laws bind *indefinitely*, nay and ſuborn the Scripture to falſe witneſſing in affirming that they ſay ſo, when they ſay only *be ſubject indefinitely* (while he makes *all Laws* (that is *Univerſally*) and *indefinitely* æquivalent here, leaſt he come off upon that word,) which we muſt not do, and yet in the end he is forced to come to confeſſion and acknowledge (ſeeing Dr. *Taylor* will tell him ſo, from whom he will borrow that he has) that moral Divines and Lawyers (and I had hoped he were one of the firſt) do determine that human Laws bind *not* in the caſe of *intollerable grievance*. I have cited theſe words in the way ſomething more atrimoniouſly then any other paſſage hitherto, not that I have cauſe to be angry at them, as I have at others, but to ſhew occaſionally how I might take up this Gentleman likewiſe in the reſt of theſe raw Sheets, if I had a mind to exagitate that weakneſs which hitherto (till his eyes be opened farther by this controverting the point) is ſuch as may have

that

that epithite given to it at present which the Scriptures does in one place give unto *darkness* (though I acknowledge his sufficiency otherwise,) even *weakness that may be felt.*

In the third place he wont allow my little comment on *Paul. The Scripture sayes the Magistrate is Gods Minister to us for good. Very true, and the Apostle makes that an argument why we should be obedient to him because it is for our benefit. But this Casuist turns the words another way, and makes them an outlet to disobedience, by taking that to include an exception to the general precept of subjection, which is in truth nothing but a reason to enforce it.* By this passage and such as this I take my conjecture of the happiness of this mans expression, which makes what he sayes very often to look considerable, when if it be reflected upon with more thoughts (but that this Man himself tells the Apologist somewhere that he is *no melancholy Man*) it signifies nothing. If there be any thing substantial in these words it must hold, if it be put into others; and then must this be denyed that when the Apostle tells us the authority the Magistrate hath from God is for the peoples good, we may not argue thence that

he hath no authority from God for their hurt. But this arguing is good, and therefore this passage is but words. For indeed, is there any man that serves not *Leviathan* but God, will maintain that the Magistrate hath any authority committed to him of God but for the publick benefit? Let this person take heed he turns not God into the Devil, and destroyes all. If he dare not maintain that, then whatsoever is commanded against the publick benefit hath no authority to bind the conscience, and it will be in vain for him to talk idly of the danger he apprehends from my determination which hath none in it, when if he look not better to himself he must be upon the justifying Tyranny, and bring ruine upon the World. Again suppose we build nothing on the very Text, this is a principle in the law of nature, as clearly written in mans heart as that he is a sociable creature, to wit, that the end of Government and Laws, are for the good of the community, and consequently that there should be none, but for that end. From hence then, that the good of the community being the supream Law as the general and ultimate end, of whatsoever is commanded, it must irrefragable follow, that whatsoever Law is made or is to be made, it must be

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over ruled by this ſupream, and have its obligatory power originally from thence. We know in all Laws or any other things in the world, the inferior muſt give place to the greater or to the *chief*. God requires *ſacrifices* and *mercy*, both are his Laws, if theſe interfare, mercy muſt be exerciſed and ſacrifice binds not. It is no plainer in the earth that the elements give way from their own natures to ſerve the World, then that the greater or chief obligation muſt vacate the leſs. I might fill a ſide with inſtances, if any elſe could not do it. Whereas this matter then is written with a ſunbeam on the heart of man, and the Apoſtle hath an intimation of it, it is but very fit and agreeable to reaſon, that we fetch a comment on the text from that book he hath touched, that is the book of nature, or this natural Light which will convince every man, that the publick good being the end of ſociety, there can be no power from God but for that end. Again it is true the Apoſtle from hence argues for ſubjection, and he may ſay that he does not argue for any thing elſe. But what then? when *Paul* argues one thing from this truth, may not another argue from thence alſo ſomething too? St.

Paul

Paul argues well, the Magistrate is the Minister of God for our good, therefore we must be subject: And *Dr. Taylor* argues well, and therefore he hath none of his authority for other purposes; or that Law that conduceth not to the publick good cannot bind the conscience, because it hath none of Gods authority. Moreover, the Apostle argues for subjection, and that *indefinite*, but I say he argues not, nor may be construed to argue for *obedience indefinite*, and therefore howsoever these words tinckle, there is no doubt but we may and must make an *outlet* from these and the like Texts, that in some cases of the Magistrates commands, we may not think our selves bound to obey in point of Conscience, though in regard of non-resistance and subjection, there is no disobedience does follow in the case. We say not that this passage of the Apostle doth include an exception to *subjection* for that is Universall and indefinite; but we can say it must include an exception to indefinite or *Universal obedience*, that is as to all the Magistrates commands, because there may be many of them wicked, unjust, or *morally* evil, unto which we are not bound, and consequently, say I, nor to such as are civilly so.

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In the fourth place we have this paſſage wherein appears the greateſt weight. *A Law is not meerly the ſignification of the Magiſtrates judgement what is good, but the declaration of his will, that we do it, and God having given him his authority to command us, this declaration carries with it an obligatory vertue, to bind us to the execution of his will under the pain of ſin.* As for this, The declaration of the will of the Law-giver does indeed immediately bind the outward Man againſt diſobedience by *reſiſting*, or to whatſoever is contrary to *ſubjection* (that is it binds us Politically) but as for doing the thing out of conſcience (that is to be bound morally) I like well that this learned Man hath delivered himſelf ſo judiciouſly as to put in that, which is the true & only ground of all the obligation that the Conſcience can be capable of under the command of Man, and which does adminiſter therefore the ſolution to what he offers. I anſwer then to that branch which he hath of Gods *having given the Magiſtrate his authority*, and we ſay that God hath given the Magiſtrate no authority to *command* any thing but for the common good, which is a truth for which I need not again quote *Taylor* or *Hooker*, as I remember well that I might, or twenty

twenty learned Schoolmen perhaps and others to this purpose, but that it were not worth my time and trouble to go to their books, Seeing there is indeed scarce any truth can shine more clearly from the Light of Nature and the end of policy. And the Law of nature must be acknowledged the foundation of all Laws, and the measure of their obligation. I do therefore advance here this argument which I think is a stone that cannot be removed, and it is the Sum of my determination. Whatsoever is not agreeable to the will of God, or carries not with it Gods authority cannot bind the Conscience, because the Conscience hath an absolute and immediate dependence on the will of God, and his will is the adæquate rule of Conscience. But for the Magistrate to command any thing that is against the common good, is disagreeable to Gods will: or such a law carries not with it Gods authority. *E go* whatsoever is commanded, or what law soever is not conducive to the common good, can not obleige the Conscience. So that it must not be under the pain of sin, but under the sence of *wrath*, and necessity that we must not *resist*, that we actively obey in such a case.

In

In the last place he quotes Dr. *Saunderson* and I must confess I shall put the less trust hereafter on this man for any matters of controversie, or cases of weight for this presumption he seems to have upon one great name, when nothing else for ought appears, but Dr. *Saunderson* having resolved this case, hath given him the confidence to write in such an Imperious fashion as he hath done these sheets, upon a subject whereof he seems to have had so few thoughts before. As for that Dr. I have read his Lectures *de obligatione conscientiæ, and dejuramento*, and the first body of his Sermons, I do believe him an excellent Casuist, and to speak freely wherein that excellence lyes, a man of a clear head, but yet not for all that, of so *searching* a head, nor quite so learned as such a one as *Rutherford*, in his way; and by no means on the Earth, of so *large* a head, so great a wit, and incomparable sufficiency as Dr. *Taylor*. Well Dr. *Saunderson* in his ninth *prelection* puts this case, what if a Magistrate intends only his own profit or ambition in a law? does that bind? he answers yes. Because that though the Law-giver may have an ill intention, the Law may tend to the common good. This is well resolved. In

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a case or two farther then he puts this other, what if a law be unprofitable to the publick and something noxious? he answers it doth oblige, if the thing may be done without sin. This resolution is ill; for if the reason of the obligation in the former case was good, and the true right reason, then when there is not that reason, a law obliges not. If we must obey out of Conscience when a law does tend to the common good though the Law-givers intention be bad, then though the Law-givers intention be good, if the thing commanded tend not to the publick advantage, the Conscience must not be obliged upon the same account. And thus Dr. *Taylor* resolves them both, it is in some transient passages, which I will not stand here to find out. But let us hear Dr. *Saunderſons* reasons. The first is, *Because every man ought to mind what belongs to his part and duty, and not trouble himself about other mens.* But what reason is this? it does belong to every man to mind, yea and to consider and determine whether his Conscience be obliged by a law or no. His second is, *Because our duty is to obey, not to command or ordain.* And what reason is this? our duty is to obey if what is commanded

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be agreeable to Gods will, elſe we cannot be obliged to it in Conſcience though we do it. Theſe two reaſons indeed are twins, both Stillborn, and ſay nothing. The reſolution is ill, and nothing is to be ſaid for it. But what means he by theſe reaſons? The ſubject is to *obey* the Law, not *make* the Law, and he troubles not himſelf to judge whether a thing be good in reference to the Magiſtrates act, but his own. If the law paſs, he may obey it in the outward man whether it be civilly good or no, and not trouble himſelf. But if he come to the point, whether it bind his Conſcience or no, he muſt conſider, whether it hath the authority of God in it, and conſequently, whether both it be Lawfull, and conducive, to the publick advantage. *I may add* (ſays the Debater himſelf,) *though the Magiſtrate ought not to ordain any thing but what is for the peoples good, yet when he doth otherwiſe, it will be more for their good to obey him, then refuſe obedience.* I anſwer if the Magiſtrate ought not to ordain any thing but what is for the peoples good, then muſt the ordaining any thing not ſuch, be againſt Gods will. But the Conſcience cannot be obliged by any thing againſt Gods will, or the Conſcience

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is obleiged by nothing but by Gods will only. *Ergo* no Law or thing commanded us which is against the common good can obleige the Conscience; and so hath he cut his own throat here out of self conviction. Nevertheless as to what he sayes else, there is one *remove* yet this Debater sees not, and that is we distinguish between *non obligation of Conscience*, and disobedience; it may be that prudence, and such considerations as he urges, or others may prevail with a man in the outward action to obey, when yet he accounts himself free from any obligation on his Conscience.

There is one thing after this, I feel upon my own mind, I find it not in these papers; but I cannot hardly be faithful if I omit it. It is this. Suppose a Father or a Master, bids me do a thing, I conceive it like to prejudice his affaires, and leave it undone: If this Father or Master be discreet, he will commend me for my care, and be so far from charging me with disobedience as that he will account I have done his will better then he declared it. Upon this I have been apt to determine that the commands of men, and Gods, do thus differ; The one binds unless I can give a reason which is more consi-

siderable for the forbearance then that which appears for obedience: the other binds both as the *rule* and *reason* it self for my action. I think again, suppose I tell this reason to this Father or Master, and they will not admit it, but require the thing to be done notwithstanding, the prejudice which shall accrue. If it be in heat I may do well yet to forbear, upon my belief that they will take it well; when their thoughts have cooled, and the Wisdom herein of many faithful servants have been proved. But if I be perswaded fully that they will be displeased presently, and not pleased after, it seems to me here I am bound to obedience in things not sinful, though they be commanded to my own and their hurt. I answer to this. In the first place it is sufficient that a Child, or a Servant is not indefinitely bound to do every thing they are bid, but that when they have such a reason as they judge their Parent or Master will be satisfied, and better pleased that they forbear the command, they may leave it undone. If their reason does not satisfie, they may be reckoned in the case of such as have no reason. In the second place when they have better reason to forbear it then do it,

I may hold that they are bound to doing only by vertue of the Authority residing in the Parent or Maſters perſon, and that they may not reſiſt as hath been ſaid about the Magiſtrate, and that otherwiſe they were free towards God in their Conſciences, who accepts of no other but a reaſonable ſervice. In the third place I offer this, where is a diverſity of Authority. The Government of Parents, and Maſters is not the ſame with that of the Magiſtrates over the People. The Soveraignity in ſome Common-wealths is in a ſingle Perſon; in others it may be in the Nobles; in others in the Common body. That Government which is by Monarchy is either *Deſpotical* or *Regal*. The Government of this Nation is a *Regal Monarchy regulated by laws*. Theſe laws are made by a Corporation of *King, Lords*, and *Commons*, called the *Parliament*, wherein the three *Eſtates* are aſſembled to conſult what is for the common good, now though we may ſuppoſe (without granting) that the ſubjects of a deſpotical Government who have no propriety of goods nor liberty of perſon (as children and ſervants are in the houſe) may be bound to do what the Law-giver commands though it be to their

common disadvantage, because he may command any thing for his will and pleasure onely and not their goods: yet cannot we in our nation be so bound, because it is not to be supposed that the law-giver does require any thing for his own will and pleasure, but for the common good altogether. To suppose otherwise is to suppose a change of the Government, from Royal to Despotical, which is a supposition to be abhorred *The three Estates are assembled* (says Sr. *Tho. Smith* de Rep. Ang.) *to consult what is good*, that is what is for the common good as before: and so long as this is their general end and intention, and the Law is the will of the Law-giver, it appears that if any thing really be not for the common good, it hath none of their will and intention, and consequently does lay no obligation on the consciences of the people.

CHAP. IV.

I Proceed to that determination which he brings in opposition to mine, if I can find

it, and know what to make of it when it is found. *The case* (says he about the beginning) *depends on this single point, whether humane Laws bind the Conscience.* In resolving this, he acknowledgeth a difficulty. *For if on the one side we say* (saith he) *the Conscience is not concerned, I beseech you what is? nothing but our common discretion, to help our selves out of the reach of the Princes Sword.* So says Dr. *Taylor, If Conscience be not obliged then nothing is concerned but prudence, and care that a man be safe from Rods and Axes.* If on the other side *we say that Conscience is obliged, then there may follow great perplexities when any thing is commanded, that proves an intollerable grievance.* And this is also from Dr. *Taylor*, who does determine thereupon that *in danger of death and intollerable grievance humane Laws oblige not the Conscience to obedience.* And what does this Debater determine? why truly when he comes to it at the end, *The most all Divines and Lawyers* (says he) *do grant so.* Well! These Divines and Lawyers are such as Dr. *Taylor* knows, but what says this Evangellicall Divine and no Lawyer himself? why he has said already that human Laws bind *indefinitely*, and he cannot find in his heart to go from it. Let me ask him then

how

how comes it to pass, that he pretends to some *better Medium then I have propounded* in this Case? Those that say human Laws bind not the Conscience at all, and those that say they bind it indefinitely without distinction, are both in an extream. I and Dr *Taylor* have a *Medium*; and what *mean* is that which this man will set up in opposition to us? Here I turn to the place in his sheets and I find his words come to these. *I think good briefly to direct him in a better Medium then any that he hath propounded to find out the severall degrees of sin against humane Laws.* Ridiculous! if this person would have offered us a better *Medium* to determine the Case in hand, we ought to have thanked him: but as for a *Medium* to this purpose, what is it to me? Is there any question or undertaking of mine about this in the least throughout the Case? If I had a mind to know the difference or degrees of sin against human Laws, I need not come to his *I think good briefly*, Dr. *Taylor* hath laid down at large *Rules of distinction, or the measures by which we shall prudently conjecture, at the gravity or lessening of the sin of disobedience to humane Laws.* The truth is, if a man may guess at such a thing, this person as it is like upon

the quotation gets Dr. *Taylor*, where, in one place there being those *Rules of distinction*, and in another he finds, *cautions* for those that reduce into practise the rule he had laid down, that *human Laws, not good, oblige not the Conscience*, he apprehends these to be both good materials for the building something against me, but when he hath brought them here together into his books, there is no work for ought I see will come of them, and he may return them back where he had them. Here are a parcell of cautions, and notes of degrees of sin against laws, his cautions in the Dr. who giving liberty to the Conscience in some cases as not bound by human laws are very significant, that we may yet walk unblameably in such cases: but as for him who gives none, but makes the law of man to bind indefinitely, he hath nothing to do, but to require Universal obedience, upon the pain of sin, and can admit of no transgression under any caution whatsoever. His rules of distinction likewise, or of the degrees of sin against human laws, may have good use in the *Dr.* but how will they serve his purpose? the case (says he) *depends on this single point, whether human laws bind the conscience, that is whether we sin, if*

we

we be not obedient to them? It follows then when this single point or question is resolved, that they do bind the conscience indefinitely, and that we do sin if we obey not, the point determined; and as for the discourse of the degrees of sin, it is another point, that never comes between us in controversy. In the mean while if this be the determination of the point which is single, what is become of the pretended difficulty? There is not the least difficulty in this case at all, if that be all the determination.

Let us suppose the Negative extream to what he holds, that the conscience were never concerned in human laws, and that to his words, *I beseech you what then*, it were replyed the outward man, which politickly is bound, and may not resist, it were a question might require more consideration, whether every mans own security, and consequently the common discretion alone of all men, to keep themselves only from the danger they threaten, would not be a sufficient preservative of them: so far is this person wide who speaks so slightly, as if we should then *care for the Princes commands not a straw*, when we our selves have known while we were boyes, and made no con-

science of the command of any, yet did we observe what we were bid more certainly through coertion, then the most of us God knows doe now the divine precepts through the due conscience we owe to them. And if so, there is the more reason for this Author to be considerate, how he bends thus to this other extream, wherein he brings us into that open perplexity, which himself sees, but cannot find the way out, either with his *distinction of sins*, or *cautions* which will not suite his resolution of the question.

Obedience is not to be denyed (sayes he in the first of these cautions) but when a law is against the publick good. This is the prime indeed of all the Drs. cautions, & what alone perhaps is enough to be regarded. For when the Dr. and I do both make this to be the determining distinction (though he hath not spoken indeed so dryly of it, through his large invention and multitude of matter as I do) between what *does* and what does *not* oblige the conscience, in the matter of humane laws, if a man does but observe this caution, the main of his care is over in this business; he neither will, for the saving of his own damage, dare to neglect the publick interest: nor will he omit obedience

but

but when he can render a reaſon. The reſt of his cautions I will not concern my ſelf in, who have the ſame power to alter theſe, or frame others, to the over ruling truth I offer, as they had who at firſt did frame them: but as for this which I have named, the very propoſing of it in the firſt place, when the Dr. brings it in after others, doth ſeem to carry in it ſome conviction on this perſon (when otherwiſe it no wayes ſerves his purpoſe) that if a thing be not for the common good, it cannot in good earneſt bind the conſcience.

For his diſtinction or degrees of ſin, the main deſign of oppoſing my determination thereby being fruſtrate, let us ſee to what uſe elſe he can put it. That may ſtand him perhaps in ſome ſtead for his own excuſe, which will not ſtand his reader in any for his ſatisfaction. This Debater then we know in his late books, having deſigned to expoſe the *Nonconformiſt* to deriſion and contempt, as much as he could, for the withdrawing the people from Schiſm, and recalling them to Church (to ſpeak honeſtly of his end) hath thought it fit in his firſt book to begin his charge of theſe men with the breach of the *Oxford* Act, the

charge

charge is very high upon this, that they are not good Christians, nor Ministers of Christ. To this end persisting in the same mind, through his books even to this Postscript of his appendix, he gives us these notes for the discovering of the greatness of a sin against human Laws, the Issue whereof comes to this, that though there may be several Instances of persons besides living in the breach of other statutes the sin of the *Nonconformist* against this act, must come under those more hainous aggravations, that when such are excused, yet as for these, *we may find he had reason to say what he did*, not to use any other then his own words. And what is that then he will acknowledge he hath said? *I never said that no man can be a good Christian that transgresseth an Act of Parliament: nor that every transgression of a statute is a deadly sin: These are inventions of his own upon occasion of a single Instance which I gave of defyance to a Law wherein some men live, mark my words, from whence he draws an Universall proposition.* And does he say so. Let me turn to his book and see how he can come of thus. The *Nonconformist*, speaking of his Minister, the matter is thus Ushered in, *How can he*

be a Minister of Christ (*says* the Conformist) *who is disobedient to his Sovereign, whom Christ bids to obey?* And then Instancing wherein, he urges this *Oxford* Act, and concludes, *therefore he is not a good subject, and consequently no good Christian or Minister of Christ.* Let any man judge here whether these words, *How can he be a Minister of Christ who is disobedient to his Sovereign?* be not æquivalent with this proposition. No man that is disobedient to his Sovereign is a Minister of Christ. With what face then can he accuse me with drawing an Universal propesition from his words, when there is one express in the book, and from thence this conclusion is deduced? I *never said*, does he mean these are not his very words? away! nor do I say they are, but does not what he sayes amount plainly to this very sence? I prove it. *Therefore* (sayes he) *he is not a good subject, and consequently not a good Christian.* I argue with him from hence this person is a man of Reason and Logick. Here then is a conclusion, no conclusion can be good but from an Universal proposition. This Universal proposition must be this, that whosoever is disobedient to his Soveraign, or transgresses an Act of Parliament is no

good

good Christian. And the Universal proposition in his book is this, which howsoever we understand (to help him out) that he means, whosoever transgresses any act of Parliament in such a high and hanious manner as the Non-conformist does the *Oxford* act, yet still is a Universal proposition: either this person therefore must renounce the words in his book as illogically or falsly concluded, which yet he cannot do, neither but by acknowledging the universality, and the denying the truth of the proposition: or else he must be ashamed here of this unjust accusation of me, who have done but right to him. But if this denial will not serve him, he is not destitute of other shifts. *There is no occasion* (says he) *for this question whether every transgression of a Statute be no less then a deadly sin, unless he is of opinion that all sins are equal.* By these words he does seem manifestly here to make some escape upon that term *deadly sin*, and then he must distinguish between *sin* and *deadly sin*, which no Protestant will allow him to do, who say that all sin is mortal; & there was nothing else intended by a deadly sin, but a sin that deserves or makes one guilty of death. Indeed if this Person can tell me of any little

sin

ſin, in oppoſition to a greater, which a man may knowingly and willfully live in, without repentance unto death, and it ſhall not damne him, or do him hurt, then I ſhall like well of his comming off here, upon this term: but if he cannot, then will not this ſerve, he muſt ſeek another ſhift. And what is that in the next place, for he is brought here into a ſhuffling condition, that is plain? why we muſt diſtinguiſh between a wilful living only, in the tranſgreſſion of a law, and the living in the *defiance* of it. *The inſtance I have* (ſays he) *is of the defiance of a law in which ſome men live.* This word *defiance* therefore he hath up three or foure times, beſides the cotation in the margent, and bidding us *mark the word.* But I pray why muſt the Waggoner that every day tranſgreſſes the law concerning his Waggon, or any other the like inſtance, be accounted with this man only to live in the tranſgreſſion of that law, and the Nonconformiſt in his non obſervance of the *Oxford* act be adjudged to live in the *defiance* of it? Alas! who does not ſee here into what a pitiful ſhifting caſe he is driven? or who does not perceive what is worſe, that is, the animoſity, perſhneſs, or overbeer-

neſs

mes (to speak with candour) of the man mind against the Non-conformist, which does hinder him the coming off here with that ingenuity as he should do, which is by confession of several of his imprudent speeches, and craving pardon for the intemperance he hath used. But in the last place, there are still degrees of sin, and the man that breaks other laws may not be so deeply guilty as he that lives in the breach of the act at *Oxford*. Let us see then what he can alledge for this. *The more needful a Magistrate judges a thing to be done or avoided or the more his will is set upon it, the greater or less is the sin of him who breaks such a Law.* Now he argues from the *Preface* and the *Penalty* of the *Oxford* act, how much the will of the law-giver is set upon the observation of that act, unto which I answer, besides that Dr. *Taylor* doth tell us that the greatness of the penalty doth sometimes shew the smalness of a thing that is forbidden (as that which else would not be regarded) and not the haynousness of the transgression: it does appear that the will of the law givers in that act, was set upon the *Non-conformist* taking the oath there prepared, as that they would have enforced them

them to by ſo great and preſent a danger, and was the thing which ſeemed to them ſo apt to prevent, the evil ſuppoſed in the preface, when as for their living within five miles of a corporation otherwiſe, we cannot think the minds of the *Majority* to be at all engaged in it. Now this Debater ſhould have endeavoured to give the *Non-conformiſt* ſatisfaction in reference to his taking the Oath, if he would have ſerved the State according as the will of the law-givers were then ſet, but this was a task which he hath declined, although he was put upon it, and directed to their objections, in the *defence of the propoſition*.

There is ſomthing after this, which may be ſaid, that though this diſtinction, or degrees of ſins will ſtand him in no advantage for the oppoſing my determination, or juſtifying his cenſure of the *Non-conformiſt* to be no good Chriſtian, yet may it be of uſe to him to alleviate the harſhneſs of his judgement in the main, that human laws do oblige the Conſcience ſo as without diſcrimination he that obſerves them not, does ſin. Hence when he propoſes the caſe of a law-giver enjoyning a thing to ſome particular good for the publick, and it appears that he

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is mistaken; this Debater does continue still (such an obedient Soul has he above others) that *though he be not bound to be of the lawgivers judgement, yet does he take himself bound* (he means bound in Conscience) *to follow his will even while it were better for the publick it were otherwise ordained.* There are cases we know sometimes wherein by the change of things and occasions (as in Seiges) that which was for the publick good does suddenly turn to its hurt. In such instances we are not to obey a law says *Aquinas*, which Dr. *Taylor* hath noted: and there is no doubt to me in the Case, where the lawgiver is mistaken in a matter, the like reason ought to prevaile. But if he be thus resolved, let us know how the degrees of sin will help him out at a need. Let me suppose a poor man who is tender in his Conscience and fears God, coming to this reverend Person and telling him this case. His Grand-father got a little mony, and built him a small Cottage on such a waste ground, his Father lived in it, and bestowed more cost of it, and hath left it him, where he and his wife and children have lived comfortably upon his labour; but now it hath so hapned, that being

ing the other day at his Masters where he wrought, he heard one read a certain book called the *Friendly Debate* where he perceived, about the very begining that the Author was of the mind that a man could not live in the breach of the Law of the Land, and be a good Christian: and he hath understood long by his Father that it is against the Law for any cottage to be erected without four acres of ground belonging to it. Upon this he being afraid of his condition in regard of his open living in a known wilful transgression of a statute of the Realm, wherein he cannot think but that it is a very plain *defiance of a Law* as that book speaks, he is come to him to see what he can offer for the releiving his Conscience. If this Author here deal roundly and plainly with the man, he must tell him that there is no remedy but he must pull down his house, and he and his wife and children be turned to beging, rather then by his living in a known sin without amendment he should be damned. If he deal otherwise, then he may tell him that though indeed every transgression of a human Law be sin, yet there are degrees of sin, and this sin of his is a lesse sin then that of the *Non-conformist* living in the breach of the *Oxford* Act: and therefore he should be

of good comfort and go home in peace. I pray now will this indeed ſerve a Conſcientious man? It is nothing to him that another's ſin is greater then his, he is to look to his own ſoul, and if he lives in the leaſt ſin with full knowledge and conſent, and hardens his heart in it, he cannot ſee how he ſhould be ſaved. So that unleſs you ſatisfie him, and that upon good ground, that every tranſgreſſion of a Law is not ſin, and then ſhew him how his tranſgreſſion is but ſuch a one you are not able to ſtand him in any ſtead in his Caſe. I remember a text of our Lord which I haue often thought upon, that *by a mans words he ſhall be juſtified and by his words he ſhall be condemned.* The Phariſes were men very holy in their profeſſion and did tye very heavy burthens upon others, but when they were to perform the ſame themſelves they were it is like backward enough: our ſaviour Chriſt therefore meets with them, for theſe ſhews without reality, and words without performance. *Verily I ſay unto you that for every idle word a man ſhall ſpeak he ſhall give an account for it at the day of judgement.* The word *Idle* in the Original as without work ſays *Canſabone de verborum uſu* ἄεργον is contracted of ἀέργον every

every Idle word is every word without deed; and muſt import thus much (whatſoever it does more) that when men make ſtrict profeſſions, and determine ſo rigidly in points of duty, and do not anſwer their own dictates and ſayings, let them take heed leſt by their words (leaſt *ex ore tuo*) as being *Idle* words they bring not themſelves into a juſt condemnation. I will therefore adviſe this worthy perſon, and all men in reſolving Caſes of Conſcience that they take heed of ſetting down any matter for the binding of others, then accordirg to which in their own practiſe they dare be content to be judged by. Thedetermining the obligation of human Laws Indefinitely on the Conſcience is more then any mortall can bear. For my own part I will proteſt that whilſt I allow the Conſcience to be bound, by the Law of men when thoſe Laws tend to the common good, yet do I not hereby cut my ſelf of from the reſerve of any liberty that may ariſe to me from a farther diſquiſition: although I count it but neceſſary both to give my reaſon why in ſincerity I hold ſo, and to deliver my conception of that obligation.

It is a ſaying of the Antients, a man is not born for himſelf only, but for his Coun-

try, which is not writ only in *Cicero*, but in the heart of all men, for this is a truth throughout the earth, and delivered by God all along his word. while he makes our own ſelves to be the rule of our carriage towards our Neighbours, that we mind not our own things only, but every one the things of others. Though we ſtudy and ſeek the tranquillity and peace of thoſe with whom we live: and conſequently in all Societies and Communities, we ſhould regard the publick concern, even above our particular advantage. Theſe are general moral precepts which are writ I ſay in the heart of man, and to be proved in Gods word. The Magiſtrate I account now is Gods Miniſter, to conſider of, and then deſign and appoint the particular things or inſtances wherein every one in their ſeveral places are ſerviceable in theſe duties and ends; and upon that deſignation of the particular things, the obligation flows from thoſe general precepts of God, upon the Conſcience, for their obſervation. I ſay there is the general Inſtitution of God for Societies, and that men in ſociety ſhall mind and endeavour in their place the publick concern, and not their own only. The Ma-

giſtrate

giſtrate is his commiſſiated Officer to deſign appoint or ſet apart, and ſo declare the inſtances or particular things which are conducive to this good of the community which they all are bound to intend upon the deſignation, appointment or declaration of theſe things, the obligation flows immediately from the general inſtitution of God upon the Conſcience for the obſerving of them, when there could flow none elſe from theſe particulars themſelves. The particular laws or things themſelves we know are not the precepts of God, and the Conſcience is obliged only by Gods will; but the general inſtitution of ſociety, and that we ſhould ſeek and endeavour in our place the good of the Publick as our own, and above our own, in ſuch particulars as be conducive truly to that end, is of God; and the Magiſtrate (I ſay) according to his office deſigning theſe particulars, we come (not *ratione conſequentis*, or *abſolutè*, only becauſe ſuch things commanded, but *ratione conſequentiæ*, or *ex hypotheſi*, becauſe ſuch things commanded do come under the divine inſtitution) to have the Conſcience bound to their performance. From hence it follows likewiſe that if theſe inſtances or particu-

lars do not indeed come under the ſervice of theſe general duties or end, ſuch a law is to be lookt upon as cut off from Gods inſtitution, and ſo can have no authority derived to it from God, for the obliging the Conſcience of any, when yet the outward man (out of the caſe of ſin) is ſtill acknowledged to be bound. The particular commands of the Magiſtrate does (I ſay) bind the outward man: but the general inſtitution or the moral duty in general of ſeeking the welfare of the Publick, and not our own only, is that which binds the Conſcience which otherwiſe were not bound.

As for the fifth Commandement, which requires honor and obedience (ſuch as is meet) to our ſuperiours, I do not here diſtinguiſh it from, but include it in this general inſtitution, for that command muſt be underſtood as a comprehenſive thing, containing in it the whole *commiſsion*, the ſuperiour hath from God, which granting him his power to command, doth alſo ſet the bounds and limitations to that power, that he command no other things, or no otherwiſe then as he hath appointed: and upon ſuppoſition that the ſuperior acts only according to his commiſſion, that is, according

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to his preſcribed duty, or rule in civil things, this Commandement of God doth lay an obligation on the ſubject to obey him out of Conſcience. If you will ſay upon this that the Magiſtrate hath a derived authority from God, for this very act of determining the material object of our obedience, and therefore beſides the obligation which flows from his inſtitution when the matter is determined, the Conſcience muſt be obliged from the Magiſtrats determination it ſelf, by vertue of that derived authority from him, I have no need to gain ſay it, and whether you will make it a double obligation, or an obligation from a double cauſality, or a mixt obligation divine and human, it matters nothing to our diſpute, ſo long as Gods authority in the things commanded, or his allowance that they be commanded be firſt acknowledged, before we look upon the Conſcience to be indeed concerned in them. This is certain, every authority that is *derived* muſt be *limited*, and that according to the will of him from whence it is derived. The authority God reſerves in his own hands is that alone which is unlimited and infinite. Now the limits God hath ſet the Magiſtrate as to the determining

the particulars of his ſubjects duty (which is his power of making laws) comes to this, that he chooſe them only out of that general matter that is conducive to the end of government, the publick good (that is to obſerve the rule of things political): If he ſhall therefore appoint any particular things for his own profit, pleaſure, or humour, which come not under this general matter, (to wit, *qua habet rationem publici commodi*) as God hath preſcribed, it is manifeſt that he acts not according to his commiſſion, and ſo can have no power derived from thence, for thoſe acts or laws, and conſequently however ſuch laws do bind us in *his courts*, they are of no validity *in the court of Conſcience*. We will acknowledge in whatſoever he commands an authority divine for his *Office*, and ſo if he will inflict the penalty we muſt not reſiſt. But we can not acknowledge Gods authority in this or that *exerciſe of his office*, that we ſhould do the thing out of Conſcience. In ſhort, we are indeed bound upon the *penalty of his law*, (if you will) but we are not bound upon the *pain of ſin*, to obey the Magiſtrate in every caſe.

I muſt profeſs here in the words of truth, and

and ſoberneſs, that ſo far as ſo mean a perſon as I am can diſcern, there is a great deal of darkneſs hath ſpread it ſelf upon the face of the earth, and more eſpecially over many learned men, who when they have forſaken that light which they have flowing immediately from God, on their hearts to to ſeek unto the Ciſterns of others works and books, they have been not only miſled themſelves, but bereft us of many truths of the cleareſt evidence, and greateſt concernment, ſuch as this particularly concerning the obligation of human laws, how, when and how far the Conſcience of man (which belongs directly only to the Regiment of God) is or can be bound by them. If we will therefore but go as near as we can to the fountain, and look into our own minds, into all which God ſhines according to a ſeveral meaſure with his light, though he influence but ſome with his ſaving grace, we may find, that as we are inſtructed in matters of *Religion* to ſeek unto ſupernatural revelation, and ſo to account that whatſoever is agreeable to the rule of Gods word is obliging to the Conſcience, and what is not cannot oblige us as worſhip: and as in matters of *morality*, what is and what

what is not agreeable to the law of nature, does or does not oblige us as virtue or vice: so in these matters which are of a *civil* or political concern only, we do find that the rule which God Almighty hath written in the heart for us to judge by, and is the supream law in such matters, (which in words also is famously acknowledged) is the common good: so that according as any thing commanded in humane laws is agreable or not, to that rule which is Gods rule for these things, the Conscience is bound or not bound by the same. Nay as things are not only religiously or morally good and evil according as they agree and not agree with the word of God, and the moral law in the heart, but the more or less they agree with the rule, the more or less good or evil are they: so the more or less any thing commanded in a law doth agree with the supream rule of God, or law, in these political things, by so much the greater or less is the sin of not observing them. So short indeed is this Person and others in their notes of the degrees of sin against humane laws, that the formal difference it self of these aggravations or diminutions in respect to the conscience (whereof alone Divines

vines ſhould ſpeak when this mans differences from the will of the law giver, belongs to the Lawyer) is not conſidered. And now when it hath pleaſed God Almighty by ſo inconſiderable a veſſel, and in ſuch a kind of careleſs and unregarded expreſſion, (which others may mend) that the exellency of the truth may appear to be the more from him, to deliver to the world this law of his, to govern and reſolve men in theſe caſes, I do not know how few, or how many there be that will receive it. When *Moſes* went up to God into the Mount, and brought down the law of the two Tables, it was a glorious matter? there is no man can go up to God now in that manner: but every one may go to him, (if we ſearch after him who is not far from any of us as *Paul* ſpeaks) as he dwels in that light which he hath put into our hearts, and from thence (as one who hath been converſing there rather then with the *videturs* of men) have I brought you down this law, or rule of his will in Politicalls, which though the generation of men no where, even amongſt the moſt ſavage, is without, yet have they taken notice of it ſo little hitherto, that waxing vain in their own imaginations, they have

have not underſtood, when they have acknowledged, that this indeed is the ſupream law to all others that are human, by which they muſt be tryed, approved overruled, and according to which, and to which alone, can the Conſcience of any be obliged in their obedience which they yield to theſe maters.

CA. V.

THere remains the laſt thing I have to do, which is the ſurveigh of this *Debaters* exceptions, or other paſſages not yet conſidered, and to ſay ſomething to them according as they are of moment. This general does contain the principle thing the Debater ſtands upon, and which requirers the larger field for my debate with him, I ſhall devide that one buſineſs, therefore into three ſucceeding Chapters, and leave a laſt for the reſt.

CAP.

CAP. VI.

THe great and principal exception he hath, and which will deſerve the pains, is upon a queſtion which comes in as neceſſary to be askt upon my determination, and it is this. It being ſuppoſed, and to be granted, that the *will* of God is that alone which does oblige the Conſcience, and that according as a thing commanded in human Laws does conduce to the publick good or not, ſo is it agreeable or not to his will: the queſtion is who ſhall be judge, whether a thing commanded by a Law be for the common good or no, and conſequently agreeable to Gods will and obligatory to the Conſcience. I anſwer every Man muſt be Judge on neceſſity himſelf in reference to his own action. I prove this. Every Man muſt judge of his own actions whether they be agreeable to the will of God or no. But to judge whether a thing commanded by a Law be agreeable to Gods will, is to judge whether it be conducive to the common good

or

or not. Therefore every Man is judge himſelf, whether a thing commanded be for the publick good or no, in reference to his own action. Again, to judge whether we are bound in Conſcience to any thing commanded in a Law, is to judge whether it have Gods authority or not. But a Law or any thing commanded by a Law hath Gods authority or not, according as it is conducive to the common good. Therefore a Man muſt judge, whether that which is commanded him in a Law be for the common good or not, to judge whether he be bound or not bound to it in Conſcience. I muſt needs ſay there are ſome have had occaſion to be more ready to reſolve this queſtion, then otherwiſe they have deſired. We have had late impoſitions, and thought many times in what ſenſe they might be taken. We have come quickly to ſee, if they be taken, it muſt not be in any ſenſe of our own, we can frame, which were moſt looſe; but it muſt be in the impoſers meaning. This meaning is not certain, but ſome have believed thus and ſome otherwiſe. In the upſhot then this is that I have been brought, in my laſt thoughts, to conclude, that if a Man after the

beſt

beſt means he can uſe for the underſtanding the Impoſers meaning, can take what is impoſed in that ſence which he verily believes in his own heart to be their meaning, he ſhall do well and ought to take it; if he cannot, he muſt forbear and choose to ſuffer. Being thus prepared in order to the determining a mans own act, about the taking an impoſition, when the queſtion lyes upon the meaning of the Law-giver, and the ſubject I count being changed only into his generall end in this, I had no cauſe to ſtick here, where there is but one and the ſame anſwer to be given to all ſuch queſtions. To wit, that notwithſtanding there may be ſeverall good cautions of thinking reverendly of our ſuperiours judgments, and not leaning too much on our own, with the like words uſed in the way, we muſt come to this reſult at laſt, that according as every man for his own part (after the beſt enquiry or exerciſe of his reaſon he can make) does believe in his very Conſcience whether the thing commanded in a Law be for the publick good or no, I mean it in reference to his own doing it, that is moſt plainly according as he believes in his own ſoul that the doing the thing which

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is commanded (by his example or otherwiſe) is conducive to the publick good or not, ſo muſt he account it agreeable or not to Gods will, and his Conſcience accordingly be bound, or looſed in regard to the performance.

I will convince the *Debater* from his own mouth and from the thing it ſelf.

From his own mouth we have a Caſe hath fallen very luckily before mentioned. What if Magiſtrate miſtake in a Law, and the matter be not conducive to that end for the publick he ordained it? He anſwers he is not bound to be of the Magiſtrates opinion, but may judge it better the Law were otherwiſe, yet thinks he is bound to obey it. But if this man and ſo another may be, and is, of a contrary opinion to the Magiſtrate, that the thing commanded is not for the publick benefit, as he acknowledges in that Caſe of his own putting, then hath he acknowledged in effect all that for which he cavills ſo much at me upon my anſwer to this queſtion.

For the thing it ſelf, In the firſt place no mortal man on Earth, can have power to make me, or him, or any underſtand, to think, or believe otherwiſe then we do. If

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I do think then, that such a thing commanded be not for the common good, so I shall think, and must think do what the Magistrate can, or my self either. And if I do believe so then do I judge or believe that it is not according to Gods will, and consequently that I am not bound in Conscience to it. If you say I should not think so, it is unlawful to judge so, you contradict this man, who says, he is *not bound absolutly to be of the Law-givers opinion, that all such things are for the publick good as he decrees*; which is as truly, as stoutly said against himself, for the matter will not bear it to be otherwise. In the second place, Conscience is a faculty which God hath put into Man, to judge of his own actions, in reference to his approving or condemning him for them. Whatsoever actions then are accountable unto God at the great day, are to be judged at present by Conscience. We are accountable now no doubt to God for our *civil* actions, as well as others; and when in matters that are civil, those things have or have not his approbation, as they do, or do not conduce to the common good, it follows that every man must judge of the things commanded him, whether they be or they be not to the

common good, that he may be accountable unto God, according to what he is bound or not bound in Conscience by them. In the third place our *Protestant* Divines in their controversy which the *Papist Dejudice*, do allow to every man a judgement of private discretion which is the same with this judgement of Conscience, that what means soever we use for our information, we must be the last judges our selves of the things we do, whether they are agreeable to Gods will or not, and according to our own belief must resolve upon the practise or forbearance of them. It seems to me now a thing unreasonable and injurious unto mankind, if we shall take away from the subject this judgement of *private* discretion in things that are *political* which we cannot but allow them in all other their *morall* and *religious* actions. If there be an infallible judge in *Civils* we may expect one in *religious* matters. But if there be no *Pope* nor Counsels but may erre in their Canons, there are no Law-givers but may erre in their Laws, and there is no cause why any should indeed be more shy of granting the subject this judgement of discretion in reference to what the Prince hath *Enacted*,

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any more then what the Church hath *declared*, but only that they could not ſo well tell the rule to judge of things *Civill* as they could to judge of *Doctrines* and *morall Precepts*. As God therefore hath given us the Scriptures for a rule of religion, that when any thing is required of us to believe or practiſe as neceſſary to Gods worſhip or our ſalvation, we may and are to try it, by this rule, and can be obliged thereby no farther then we do judge it agreeable to this rule: and as in morals he hath given the law of nature for our rule: ſo hath the Almighty given to man his rule alſo in things politicall (which he hath written in his fleſhly tables, as ſure as there is any law of nature, and that is Gods will, as the ſcripture is) whereby the Laws of every Common-wealth are to be tryed and judged, the Law-giver being accountable to God according as he acts by it, and the People obliged in Conſcience, ſo far to obey his will as he commands agreeably to it: and this Rule or Law as I have before ſaid, is the common good. Things are religiouſly good or evill as they agree or agree not with the Scriptures. Things are moraly good or evill as they agree or a-

agree not with the Law of nature. Things politically good or evill as they agree or agree not to the publick advantage. If I am commanded any thing about my religion I will go to the Scripture, if that commands me otherwise I cannot obey it. I will go to the morall Law in matters of vertue and vice. In politicall things, or things required by human Laws, I must go to this rule I have proposed: I must judge of them as good or evill in their kind by that. If my doing the thing will not answer the rule, I am not bound in Conscience to active obedience. In the last place if this be not granted, when you allow the subjects to be reasonable agents in things *religious*, or *morall*, that may bring what is superiour commands of that nature to the test of Gods will, you turn them into bruites in things *civil* while they may bring what they are commanded to no test, in relation to their own actions. If you deny me my judgement of private discretion, you will not let me act as a man. Indeed this person will have the liberty to judge otherwise then the Magistrate does, and yet be bound in Conscience to obey, which is to be beneath a bruite

bruite, for the beſt act ſpontaneouſly, and follow the dictates of their ſenſe, if they be not hindred. But this man will have his judgement one way, that the thing is not good, and his will and actions another way, and that not upon conſtraint from without, but upon the principle of Conſcience, which is a contradiction againſt all good ſence. But as for others and this man too otherwhere (who makes it a *placing our ſelves in the throne to determine otherwiſe concerning the publick welfare, then the proper judge of it doth*, ſo conſiſtent is he with himſelf, and ſuch need hath he to be angry if one adviſe him to be more *reflective* on what he writes) that will not let us have a judgement different from the Lawgiver, and ſo to act only upon theirs, they make men to become Horſe as the and the Mule, upon whom the rider gets up, and they muſt go on, the *why*, and the *whither*, as the driver pleaſes. But if this be the Iſſue which this mans opinion will lead us to, and this ſon of *Circe* ſhould expect by the conjuration of theſe few leaves to transforme us preſently out of our humanity, that we ſhould be content to be governed hence forward without the exercise of our own reaſon, or aſſent

That is, not to act out of election, but to be moved in civill obedience only as we are *driven*, we shall have little cause to be very forward to hearken to him. He may lay down his Penn and take a Whip in his hand and go Whistle.

But let us hear his exceptions to this answer. *Who shall be judge whether a Law be for the publick good or no. His answer is ready at his Tongues end, for he needs not go deep for it.* The *Magistrate must judge, what is for the publick good for the making the Law, and we must judge as to our obedience to it. Then which it is hard to write any thing more inconsiderate and dangerous.* I do acknowledge this to be my judgement, and for which I have offered here some reasons, and it is not his saying this answer is inconsiderate and dangerous ought to prejudice it, if it be well advised, and there be no danger indeed in it. For neither doth this man know the previous thought on other occasions upon which this hath been set down; nor hath he yet understood the state of my opinion right, that he should charge it with any of those consequences, as are but the Lyons, and the Bears, the Chariots and the Armies, that fly in the Clouds of his own

own Immagination. *But let us hear the reason of this wonderful decision which he hath as ready as he had his answer. Because saith he every man is made by God the judge of his own actions, I cannot for my life see how that follows from this, though I have put his reasoning into the plainest form that ever I could.* It is pitty but this mans life should be saved, and therefore I will tell him my reasoning. Those Laws, I was shewing, which be not for the common good are not agreeable to Gods will, or have not his Authority, and so bind not the Conscience. The question upon this was as it is set down, and the answer and the reason with the addition of the words following. *Because God hath made every man judge of his own actions, and consequently of all circumstances, whether they are agreeable or not to his will for his forbearing or doing of them.* If God then hath made every man judge of those things which he is to do in all the circumstances, whether they be agreeable or not to his will, then must he judge whether those things that he is commanded to do in human Laws be for the common good or no, because those Laws only are agreeable to his will (I had laid down before) which

are for the common good, and those that are not are devoid of his Authority and bind not the Conscience. This I deny not to be my very substance, and as the reasoning is manifest, and will appear so (I doubt not) to the indifferent, so must it not be thought to be inculcated too often, either there, or here, seeing no man can stand safe in dispute, but he that knows what is, and when he is upon his foundation. For the mans disdainful expressions I have (I account) my satisfaction, and he his sufficient reproof, that he hath no more cause for them. *It is not sence to say the Magistrate must judge what is for the publick good in reference to his act of making the Law, and we in reference to ours of obedience to it; for he doth not only judge but enjoyn, when he makes a Law; which leaves us no liberty but to judge whether his will and Gods do not clash together.* And why is not this sense, what reason is this that it is not sense? if he could have said the Magistrate does enjoyn, and not judge at all before he enjoyns it, then he might have pretended to say thus. But if the Magistrate must not enjoyn any thing before he hath considered, and judges it to be for the common good, and if he doth

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enjoyn any thing that is not for the common good he hath no Authority from God for it, then does it appear neceſſary, that we do conſider likewiſe, and judge whether it be for the common good, and have his Authority, or elſe we cannot be bound in Conſcience to it. And thus you ſee very good ſenſe, evidence and fulneſs in this anſwer to the queſtion and that the Magiſtrates will, declaration of his will, or enjoyning a thing, does not take away our liberty and duty, to conſider when he hath enjoyned it, whether we be yet in Conſcience in obliged, or in prudence only, and the outward man to obedience. The miſtake of this perſon is that he thinks we may not judge of a Law, but only whether it be *againſt* Conſcience, when we muſt no doubt judge alſo whether it be obliging to Conſcience, or otherwiſe how ſhall we make Conſcience of it? We are not to judge only whether it *claſhes* with Gods will, but whether it *agrees* with it. If the Magiſtrates will be not againſt Gods will, yet if it hath not his will and authority with it, it is not obligatory to the Conſcience. The Magiſtrates will binds not at under from Gods, In morals the caſe is not thus, whatſoever

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is not *according* to Gods will is againſt it, But in civil and indifferent things a thing may not be againſt his will, that is againſt any moral precept (as our obedience I ſpeak of to ſome human Laws) and yet have none of his Authority for it. Thus prudence, the preſervation of my ſelf, and the Magiſtrates honour, may prevail with me to do a thing which I think otherwiſe I have no obligation to do in my Conſcience.

I will yet add. I diſtinguiſh my *obedience*, and my *obedience out of Conſcience*, or my obedience out of other *generall reaſons*, and my obedience out of Conſcience, to this *particular command*. I do not reſolve my *obedience*, into a judgement of private diſcretion whether a Law be for the common good or no, for I can apprehend eaſily that when God hath required the Magiſtrate to make no Law but according to this rule, no unjuſt, or unprofitable Law, he hath not yet commanded that I ſhould never obey ſuch a Law. I may obey out of a generall implicit apprehenſion of duty; or a ſingular love to my ſuperiors perſon, for fear of his diſpleaſure: to avoid the danger of the Law; or out of ſeverall prudentiall

dentiall conſiderations, regarding the Magiſtrate, my ſelf, or others: when yet If I come to the point, whether I am bound in Conſcience to do the particular thing commanded, that is whether there lyes a divine obligation on me as well as that from the Law to do it I am on neceſſity then to examine it, by the rule which God hath ſet me, and that being no other but the *common good* in politicalls, I muſt reſolve my *obedience out of Conſcience* into this judgement, when I reſolve my *prudentiall obedience* otherwiſe. It may ſuffice me therein, ſo long as the thing is not ſinfull, that I am obliged by man. It may be but very rare if I queſtion my Rulers commandment, which is like to be only perhaps in ſome grievous preſſure. If the Law be bad, my obedience yet and my example may do good, nor does the Magiſtrates abuſe of his office I hope take away my liberty to endure it if I pleaſe. The true ends moreover hapily of *obedience*, may be obtained, when the end of *Ruling* is neglected. Nay the *common good* may be promoted poſſibly, by my yeilding to a Law when the Law it ſelf does croſs it. And farther my diſobedience may do more hurt to the *common*

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good then the obeying that hurtfull command would do. So farre am I from discouraging any from *obedience* to humane Laws (as a thing generally good and prudentiall) when I would keep the Conscience free, and not have it burdened with sin for every want of their performance. I see indeed by this and other learned persons, what an immagination they have got, that if I resolve the question whether I am in Conscience obliged to obey such a Law, by my private judging of the thing commanded whether it be agreeable or not to the *common good* I do *usurpe the place of the Ruler and make my self only my own Law-giver*, as they are apt to speak. But this is a mistake, for besides that when I judge of the thing commanded by its Rule, this judgement of mine is not the *maker* of my duty but the *discerner* of it, and so I do not become any Law-giver to my self in the business: I distinguish the *obligation of a humane Law*, and the *obligation of Conscience* (*formaliter & simpliciter*) by that Law. If I resolved the whole obligation of humane Laws into this Rule, and my judgement of the Law by it, so that I held it must never be obeyed on other reasons,

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or that if I were punished for not obeying, I was not bound to submit, then did I offer injury indeed to my Ruler and usurped his Government. But if I resolve only the *obligation of my Conscience by that Law* into this rule, and my judgement of it accordingly, I usurpe no power of the Magistrates, which I leave him still over the *exterior man*, but I keep God only as I ought in his own seat of the *Conscience*. And verily if the Conscience of man be concerned in every human law, I would fain know, how any of our great Clerks can say that human laws bind not in the case of intollerable griveance. If God does command me to do the thing, it is not any griveance of minde can excuse me, but if it be man indeed commands it only and not God, the griveance will be reason enough for me to call it in question, and to avoid it if I may; but the reason of my non-obedience, must not have this foundation, that it is my grievance, or that I cannot endure it, but that *considerandis considerandis*, I am not obliged to it in Conscience.

CAP.

CAP. VII.

THus far his exceptions are but *words*, let us pass now to his *reasons* against my answer.

His first reason is, *It is no easy thing to judge what is best for the Peoples good, Kings themselves find it necessary to have their Councels to advise about it.* To judge what is *best* for the Peoples good is indeed a high matter. To judge only whether a thing be for the common good or not, is another matter. The judgement of every one is free, and any body may judge of any thing as he is able, and as he will. The Cock may pass his judgement on the Pearl he scraped up. That which comes to carry any stress upon judging, is the consideration of the effect that depends upon that judgement. The judging of a thing which a Man himself hath to do, hath this effect depending on it, the doing his duty, every one is to judge of

of all those things and circumstances which belong to his own acts, whether or no they be agreeable to Gods will, that he may do as he ought; and the rule of this will in politicals, I have declared. There is the act now of the Magistrate, and the act of the Subject. There is a great difference of the concern or moment that lies on a judgement of the same thing, when the act of the one depends upon it, and when there depends upon it the act only of the other. The act of the Magistrate is to make the law, and see it executed; the act of the People is to obey it. By this first reason of his against my answer, do I see good reason for it, and the sufficiency of it. The Magistrate judges whether a thing be for the common good, or according to our supream rule in reference to his passing it into a law, and then to cause it to be executed. The People and every particular person does judge, whether the thing commanded be for the common good, in reference only to the obligation of their Consciences to obedience. Upon the judgement of the Magistrate, there does depend an effect of universal concernment, that is the obligation of a whole Nation to live according to the Law he makes, upon

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the judgdement of each particular when the law is made, there depends no concern but a mans own, and that reſpecting his inward man only. Now its certain that the Magiſtrate in regard of ſuch an effect as depends upon his judgement, hath need indeed of the greateſt wiſdome, and the ableſt Councel, and he cannot be too cautious in his proceeding, ſeeing if he be miſtaken, and the Conſciences of the Subjects be not obliged by ſuch a law, yet are their perſons liable to be compelled and they muſt not reſiſt, which may prove a vaſt inconvenience, and to be avoided only by a right information at firſt about the matter. But as for a private perſon who judges not what is *beſt* for the peoples good (as he ſpeaks right in regard to the Magiſtrate) but onely judges of the thing commanded whether it be agreeable or not to the will of God, or the rule of his (which he hath given to the world about Politicals, if they forget not to minde it, to wit) that it be in general for their good, the effect which (I have ſaid) does attend ſuch a judgement, is of that nature onely as requires no greater underſtanding or diſcretion, then every man hath for himſelf to act by in all the reſt of his life

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and converſation. He judges here accord-ing to his Rule in theſe things, as he doth in other of his actions according to the word whether he be bound or not bound in Conſcience to them. And God requires of him to judge and act but according to his talent in all buſineſs whatſoever. He will acknowledge the outward man to be bound, and in a matter of his ſoul which concerns no body but him, or the inward obligation of his Conſcience, you muſt leave him to God and his own Judgement.

His next reaſon is, *That when Men know what is conducing to their good, they are not apt to do it without a Law.* And what does this prove or contradict? It proves it good therefore that the people have a Law-giver or Governor, and that he ſhould be wiſer and better then they, as *Plato* may urge it: But does it follow they may not there-fore judge, whether the thing commanded be for their good; Surely this will be a good reaſon why the people ſhould judge of it. For if the good they conceive in it, is the reaſon they admit to have any Law, and the argument to preſs them to obey it, then muſt they judge of that good, and whether it be conducive to that good or

not. In the mean while the difference of the reason and ends, (which is distinguished in the *Magistrates* judging of a thing to be for the common good or not, and the peoples does sufficiently declare the weakness and vanity of such speeches, as this Man hath several of. *He that makes every Man judge of what is for the peoples good, takes away the principal power of the Magistrate.* And why so? as if it were an act of power, and that usurped for any but the Prince to have a judgement of discretion over his civil actions. Again, *if the people be able to judge of that there is no need of any Law or Law-giver.* As if when men knew their duty they needed no Magistrate to make them do it, and that while himself too is telling us the need of Laws, *because men are not like to prefer the publick good though they comprehend it, before that of their own particular persons.* I cannot I perceive, be throughly intent to answer what is insignificant, but the substance in the main of these two reasons comes to this, that every man is not able to bring the thing commanded by the Magistrate to the rule, so as to judge whether it be for the common good or not, and therefore they must act only upon

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the judgement of the Law-giver, and consequently be no reasonable agents, in their *Political obedience*. For satisfaction therefore to this, Let us conceive the Magistrate commanding something *moral* or *Religious*, there are no *Protestants* but do hold that every man for himself must bring here what is commanded to the rule of the moral Law and Scripture, and according as himself believes it consonant or not to the rule he judges it, so is he bound to obey it or not to to obey it. Now let any man who hath but the heart to think and speak with integrity, consider whether a rude and illiterate man that never could read a word in the Bible, be more able to judge whether a thing commanded by the *Magistrate* be agreeable or not to the word of God; or whether it be conducive or not to the common good? suppose the Waggoner as unlearned as any man, I will ask whether such a man be not more able to judge of the Law concerning Waggons, that is whether it be good for the high wayes and consequently whether he had best or not observe the act, then to judge whether the Doctrine and Discipline of the Church of *England*, or whether whatsoever is contain-

ed in the whole Book of Common Prayer with the Rites and Ceremonies, be agreeable or not to the Scriptures of the old and New Testament? I suppose there is no man will have the hardiesse to oppose such a manifest conviction. And if in regard to his practice, this man and every other that uses the Common-prayer must judge as well as he can of the lawfulness of it, or else he cannot act in faith: and so likewise of all those doctrines or practises he yields unto them, then will there I hope be no stumbling block left here upon this account, I do advance therefore and rest upon this one argument, if the incapacity, unfitness, or little ability that some men have to judge of what is required by the Magistrate, whether it be agreeable or no to the common good, be a reason sufficient for the denying to the subject such a judgement: then must the lesser ability of such to judge whether that which is required be agreeable to the word of God, be a reason sufficient to discharge them from judging of it by the word. But the consequent is false, and therefore the antecedent. By the way, observe, if any man distinguish between judging of a *Law* whether it be for a common

mon good: and judging of the *thing commanded* by a law, or rather of a *mans own doing the thing commanded*, whether it be for the publick good or not, I am to be understood of the laſt, when I ſay the Magiſtrate judges of the thing in reference to his paſſing it into a law and we judge of it ſo paſſed in reference to our obedience or obligation by it.

His third reaſon is the ſame with the firſt. *The people are ſo far from being able to judge, that the wiſeſt Princes find it difficult*, only we have more words for the enlargement; which conſiſt partly in a grave kind of diſcourſe from a paſſage of a Biſhop *Bramhall*, of the ſeverall things and circumſtances that the Law-giver is to weigh in his making of a law, which the people cannot conſider and attend unto: and then in an idle deſcant upon this, that it is not fit therefore that *laws ſhould be ſuſpended till the ſubjects be agreed they are for their good*, with the like words, as if there were any indeed ever dream'd that a Law-giver, who is with us the Parliament, could not make a law untill they had conſulted the people firſt, whether they all of them judged the matter ſuch, that if it

were paſſed into a law, they ſhould be bound in Conſcience to the performance, and before they had an affirmative anſwer from them (who muſt be made loath too to be ſatisfied about it) they could paſs no act or ſtatute of the Realm. This is the ſenſe in which this man let his pen run here, and then concludes. *The Prince is in an ill caſe who hath ſuch ſubjects, and he is not in very good, whoſe Divines begin to inſtill ſuch doctrine into them* If there be any thing in thoſe *more words* and the *ſame* reaſon that ſeems of moment, it is already anſwered I count by diſtinguiſhing the part of the Law-giver, the ſubject, whoſe judgement of a thing commanded in a law already paſſed, for the ſatisfying himſelf whether he be obliged in Conſcience to the doing, can by no means prejudice the act of the Law-giver in the paſſing the law as is manifeſt, nor does it *threw it down* being paſſed. For this is a miſtake in this perſon very palpable, as if a human law could not be of force unleſs a mans Conſcience be obliged by it. I obſerved this in him before where he ſaid, *Laws while they do oblige tye the Conſcience*, and that the cauſe of his error was the

the want of preſent knowledge to diſtiu-guiſh between *Political* and *morall* obligation. The obligation which is on the Conſcience is *morall* and can be no other, and paſſes on it I have ſaid from Gods inſtitution of our generall duty: but the obligation which is *Political* belongs to the outward man and may ſtand good when the *morall* ceaſes, and for as much as this obligation of the outward man it ſelf does ſo ariſe from the commandment of God for ſubjection, and that we ſhould not reſiſt, it may appear to the impartial that will conſider aright of what is ſaid, that the queſtion or ſingle point between this man and I concerning the obligation of human Laws, in reference only to the conſcience, is really and in good earneſt very little or not at all material to the Magiſtrate, or the civill Government, which way ſoever it is determined. And when there are ſo many learned men of divers ſorts who exerciſe their liberty in maintaining the opinion of either extream without controle or prejudice to the world, its a thing hardly becomming either a *temperate minde*, or *modeſt Learning*, or that I ſhould have moſt expected from this Authour a *free Theology*, to expreſs himſelf in

this manner, as if a man could not endeavour the finding out a middle way that is so needfull in such a controverſie but he muſt be adjudged one that is broaching of ſomething againſt the *State*, and deſerved correction.

His fourth reaſon is, *Grant the ſubjects ſuch a power* (that is, a power only of judgeing of their own civill acts) *and in a little time no law ſhall be obſerved.* He proceeds, Taxes will not be paid. He goes on.-There will be Inſurrections and Rebellion. Upon this, he brings in certain narrations, of the Subſidy of Head money in *Richard* the Seconds time and what followed; of the aid granted to *Henry* the Seventh in his third year and the Northern Rebellion; then of a ſubſidy in his thirteenth year when the *Corniſh-men* took up arms, then of the caſe of *Henry* the eight about Aliens, and of one *John Lincoln* a Broaker that was hanged. See more in a certain *dialogue between a Counceller of ſtate, and a Juſtice*, he has in his ſtudy; for this it is for the man to light on a new book, he muſt by all means be telling us of what he was reading laſt. And thus had we at the begining of theſe Papers from the tenth argument of *Bellarmine*

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againſt Image worſhip, the relation of the *Iconomachi* and what befell them in the time of *Leo Iſaurus*; in the time of *Conſtantinus Copronomus*; in the time of the *horrible cold and freezing of the* Pontick *Sea*, the *drought* after, and the *death* of the Emperour. The man hath a ſtrange fruitful application. This brings to my remembrance an advice once I received from an ingenious and prudent Woman, who ſeeing me over ingaged in diſpute ſometimes with an Anabaptiſt, who was a man of much talk and being not willing I ſhould be ſo much concerned: you muſt not ſays ſhe, argue with theſe men in the way you do; you lay down the ſubject, and ſpeak upon that, and then think to hold them to it, and are moved when they ſpeak from the point, and ſo are confounded; but you ſhould (ſayes ſhe) give them leave to ſpeak ſo long until you can lay hold on ſomething that they ſay, and whatſoever it is, you muſt ſpeak of that; and by this means while you take them up ſtill upon their laſt words, whether it be to the point or not, you will never want matter no more then they do, and by the uſe of their own weapon may deal with them. I muſt profeſs it this man who hath

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ſo apt an expreſſion, do come to get this knack of it, as he appears to have in theſe *continuations* and *apendix*, he may continue his continuations while he lives, and I know no body able to diſpute with him, unleſs I could light on the fellow that would preach with any body, but it ſhould be (he ſaid) in a *Negative* way, *And* Peter *went to* Antioch. He went not to be drunk, here he ſpeaks of drunkenneſs, gluttony, and all manner of exceſs. He went not to lye with women, there he ſpeaks of fornication, and uncleanneſs and all other deadly ſin. But he went to preach, there he ſpeaks of the Scriptures from *Geneſis* to the *Revelation*, of the Fathers the Schoolemen, the Councels, and all the books that ever he read to this day.

For the reaſon it ſelf without its appurtenance, I have I account prevented it in the ſtate of my opinion. The ſtate alone of what I have ſaid, will wipe off any ſuch miſtaken conſequence, which he would injuriouſly bring upon it. It is one queſtion whether we are to obſerve a law: & another whether we are bound in Conſcience to obſerve it. The queſtion between us in the bottom of the point is not concerning outward obſervation: but the inward obliga-

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tion of Conſciences And the truth is as I was ſaying at the cloſe of the other reaſon, that this buſineſs does not really concern the Magiſtrate, or the Common-wealth directly at all (though indirectly and *ex conſequenti* any thing may concern any body) for what is it to the Magiſtrate or the community, ſo long as he can enforce the thing to be done if he will, whether a man does do it out of Conſcience, or out of diſcretion only: out of fear of God, or fear of the law, or his ſword. The Magiſtrate cannot take any cognizance out of what principle a man acts; the judgement is not within his jurisdiction, and if a man doth not act out of Conſcience, he cannot make him. It is ſufficient, ſo long as a man acknowledges his authority from God, that he muſt therefore be ſubject and muſt not reſiſt, and conſequently if in good earneſt he ſtand upon it, and will have obedience from him, let it be in any thing but ſin, there is no help for him (that is, he may not help himſelf by reſiſtance) but he muſt yield to it, whether he will or no. This is that which ſecures government, and Governors. Let every man be held bound in Conſcience but thus far, and as for the reſt, it is a matter concerns

cerns each ones own ſoul only and his private peace, and it will become thoſe that are prudent to be very tender what they determine in the buſineſs.

It is true this reverend Perſon thought I believe he had ſpoken well in his ſaying, that *it is hard to write any thing more inconſiderate and dangerous* then that I have: but if a man ſhould write any word againſt *ſubjection* to Magiſtracy, or his own preſent Magiſtrate, or that it were lawful to reſiſt if the Magiſtrate ſhou'd impoſe any law againſt the common good (when yet it is not ſin, I account many times not to *obey* it, and eſcape if we can without reſiſtance), this let me tell him were dangerous (I cannot ſay *more dangerous* becauſe the other is not dangerous,) that the man may receive ſome ſhame and conviction for his own being ſo inconſiderate in his cenſure of what he underſtood no better. This Debater ſhall not have I will warrant him, a breath or Title of this nature from me. Nay if a law be good I mean politically good (and a law is politically good where it is for the common good,) I am ready to believe and hold it is obliging, obliging to the Conſcience, not only that we muſt obey

rather

rather then reſiſt (wnich we muſt do if the thing be politically evil, unleſs we count ſuffering to be better) but if we could eſcape with man, we muſt yet do it, I count leaſt we offend God, if a law be not politically good, I ſay we muſt not reſiſt for all that, and upon that account rather then ſuffer we are lyable to obedience. And what is there now, or what reaſon is there that any ſhould deſire more. Let us here our man of Proverbs. A *man muſt not reſiſt (ſayes our Caſuiſt) that is expreſs, and rather then reſiſt he muſt ſuffer, but this is to ſteal a gooſe, and ſtick a feather*; I thank him firſt for this, that he hath not left out this paſſage wholly in this place, leaſt his Reader elſe might have thought me indeed ſome dangerous perſon, whereas theſe words have acquitted me; and I anſwer, that this *Gooſe* he ſpeaks of my ſtealing, is the thing ought to be *ſtolne* or removed, and that which he makes *ſo light of*, is to be brought in the Room of it, to wit, this man is of opinion that human laws even all laws indefinitely bind the Conſcience, ſo that a man muſt ſin if he break any of them, This is his Gooſe, that is, his fooliſh opinion, an opinion intollerable: and inſtead of

of this, that which I would bring in is, that though we conceive there be ſome laws, which if a man ſometimes obſerves not, he is not to charge himſelf with ſin, yet if he be compelled by the lawful Magiſtrate, rather then reſiſt he muſt ſuffer, and rather then ſuffer obey. *But why muſt he* (ſayes he) *when he is already perſwaded that he need not unleſs he be forced*? this is ſtrange! where is this Debaters reaſon? I ſay he muſt, though he ſhould not ſin elſe by neglect, *becauſe* he is forced, and cannot help it, but for avoiding of ſuffering, he does it. *But wrath* or ſuffering *is not to be feared when the multitude is agreed not to be injured*. I anſwer here is the want of the diſtinction which this author would not take from me, between the authority which is in the Magiſtrates Perſon, and that of his commands. The one is from God immediately, the other mediately by vertue of the things commanded being for the common good, and ſo particulars of that generall morall duty which is required of God. Some may uſe other words to expreſs this diſtinction by the Magiſtrates *authority* it ſelf, and the *exerciſe of it* in his commands or laws: but this muſt be known that diſ-

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tinguiſh we muſt here to the ſame ſenſe I intend, and be very careful too of the diſtinction or we ſhall be loſt. If the multitude be agreed not to do a thing that is ill, it is well I take it, and as they ought, it was manifeſtly *Jonathans* caſe. But if they agree together not to ſuffer, if the Magiſtrate will enforce the thing, let there be but the leaſt Officer will act in it, then they reſiſt, and ſin againſt God, and it is not juſtifyable upon any terms, ſuppoſe a whole army and but two men in it will ſtand by the Prince, he may. I muſt affirm to ſpeak ſtrictly on the point of Conſcience, by theſe two men alone, puniſh a whole army for any thing they refuſe to do, and they muſt bear it, aud cannot help themſelves, but with ſin which they muſt not do. *For he that reſiſteth the power, reſiſteth the ordinance of God, and receiveth to himſelf damnation.* We know the caſe under *Maximinian*, when a whole legion of Chriſtians were commanded to ſacrifice, and they choſe rather to ſuffer decimation twice over, being executed man by man, rather then defend themſelves while their lives were at ſtake, and the ſword was in their hands. Such a Conſcience ought we to have of our *ſub-*

jection

jection (and ſo much does the concern of government and the whole World lye upon it,) when of *obedience* as to ſome particular commands we need to have none. In ſhort there lyes no obligation upon Conſcience ſometimes *to obey*, but there does alwayes *not to reſiſt*, and that both ſerves the Magiſtrate turn, and ſuffices when he pleaſes to have a civil thing done.

CAP.

CAP. VIII.

I will not yet leave his laſt reaſon, ſeeing he layes ſo much ſtreſs on it, and his ſtrength of all comes to this. I do not take here his very words, but matter which he may expreſs as he will otherwiſe. *The People muſt not be allowed to judge of their own actions, which are commanded by the Magiſtrate about civil things, becauſe they will be ſwayed by their own intereſts, and judge thoſe Laws againſt the publick good which are not for their private profit: by which means unleſs they be taught and hold that all Laws indefinitely do bind their Conſciences, they will notwithſtanding the Magiſtrates power, abſolve themſelves from what they pleaſe, no Laws will be obſerved, and all Government come to the ground.* Unto this as his ſubſtance, beſides my anſwer I have already given, I ſhall crave leave to offer a few conſiderations.

In the firſt place, this is certainly a ſhallow apprehenſion, which muſt ſuffer a conviction from the conſtant experience of the

world. For how is the world governed? there is not one of a hundred that obſerves the Laws out of Conſcience; if they did, then muſt they for ought I know be careful to get the Statutes and read them as their bibles, which one of a thouſand never do. But men underſtand, if they do ſuch or ſuch things, they are liable to be ſued, or to be bound to the Seſſions or the like, and to avoid the danger of the Law, they obſerve it. Now it is a fooliſh thing to ſay the Laws will not be obſerved, or the world will not be governed, unleſs by another means then that by which it *is* governed, and the Law *are* obſerved. Our Nations and Heathen Nations, and thoſe Nations which never had the fear of God to believe a judgement to come, have been kept under the obſervation of the Laws of their Country by theſe means.

In the ſecond place, this is not only againſt univerſal experience, but it confronts the very inſtitution of God, the appointment of the Magiſtracy, God hath made the Magiſtrate his Miniſter, and put the ſword into his hand, for the ordering and governing Societies, and Common-wealths, and if this indeed will not ſerve that purpoſe, then

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you render his institution insufficient, and make his *Minister* to *bear the sword in vain*. The Law (sayes the Apostle) is not made for the righteous, but the disobedient and unrighteous. If all were righteous and would of themselves make Conscience of doing what they should do, there would be no need of Magistrate or Law: but when the Law and Magistrate is appointed for this end; to bring the refractory to order, and those that make no Conscience of what they do to be ruled, how fond must the imagination be which conceits, unless men do first beleive themselves bound in Conscience to obey, they will not observe the Laws?

In the third place, if it be for some persons particular interest to break the Laws, it will be the concern of others that they be forced to keep them if they be indeed for the common good: & so shall they joyn with the Magistrate in his causing the execution of them. This indeed is that which upholds all Laws that are good. The publick interest bring greater then the private does uphold them. Whereas if a Law be not really for the publick good, this is one certain reason at the bottom of its invalidity, and decay, because

it hath not root enough, upon the publick utility, to maintain it self against particular encroachments. If a *Non-conformist* come within five miles of a Corporation there is no body hurt by it, and no body like to be concerned at it, were this a thing truly conducing to the publick good, then must the publick be disadvantaged in their breach of that Law; and if the publick, then must some more eminently, and those should be as much concerned, that they obey as themselves to avoid the observation. By the way, when the advantage for the publick does not countervaile and exceed the private loss or dammage that particular persons shall suffer by a Law, such a Law I take to be unjust, or at least Politically evil, and binds not the Conscience. However that which I here affirm is, that whether men make a Conscience of a Law or not, if the Law be good: the publick advantage will prevail (when the Magistrate is minded) to cause it to be observed.

In the fourth place, it is a thing very *unpolitick* to offer to the world any principle upon which it should be governed, which is other then that which does govern it. If the world be governed by the Magistrates

sword,

ſword, and the Conſcience only that we muſt not rebell, and is governed as well as ever it is like to be governed: it is but an unhinging the world to pretend they muſt receive this principle, *that humane laws bind the Conſcience; or elſe there will be no need to obey, ſeeing the People may joyn and chuſe not to be forced* as he ſpeaks. It is a ſaying, if a Horſe knew his ſtrength, what might he not do? he would not let man ride him and uſe him as he does. If the world knew their ſtrength, that the Magiſtrate indeed could not puniſh them whatſoever they did, unleſs they joyned with him one againſt another, when there is juſt cauſe for it, they might ſhake off every yoke: but as the whole body of the People cannot be made to know this, ſo as at once to agree upon it, any more then the Horſe can, though every particular man does know it: ſo were it an utterly ruinous thing to ſpeak of it if they could. It is true if the people did agree together (which agreement is their ſtrength, and they cannot know one anothers preſent minds all) that they would not be forced, they might chooſe: but then when they made no Conſcience to *reſiſt*, how ſhould this man think upon his principle, that they would

would make such Conscience to obey.

In the first place, it does seem to me a pernicious thing to the souls of pious and tender Christians, to lay any such load upon the Conscience which is more then it can bear. I say there is no temptation hardly more dangerous to the undoing of a soul, then to press it upon such things as goes beyond it, and over-sets it. If a man does believe he is bound to make Conscience of every command of his superiour and Law of the Realm or else he doth sin, it is enough to make him cast off all the Laws, and when his duty is made so grevious to him, that it seems impossible for him but to live in sin, to be ready for *resistance* next, and then all Magistracy is gon. The way to have some Laws obeyed out of Conscience, is to take off its obligation from others; and if a Magistrate indeed might choose whether his Subjects Consciences should be bound by all his Laws or not, there is good reason for him to be content that the matter should be as it is. They are bound in Conscience not to resist, and he knows not his own strength if he desire any more: although when a Law is for the common good, then is there Gods command also which takes

place.

place. There is one thing I cannot but add, which might make another consideration, what if a despotical Prince was so wicked, as resolving to be damned himself to seek the damnation of all his people, and should thereupon make so many Laws, and about such trivial things on purpose, that none of his Subjects might regard to keep them, but live and die in the wilful breach of them: I pray let this Debater tell me really whether according to his opinion it does not lye in the power of such a Divel as this is, to carry a whole Nation to Hell with him.

In the sixth place, let us suppose the Consciences of men were bound indefinitely to all Laws, does this Author think really that the belief of this would make the world to observe them, and so maintain Government more then the Magistrates sword? I doubt me he is here more wide: we see too well that when the worldly or carnal interest of men is concerned, what little regard Conscience has. It were happy indeed for the Earth if the fear of God Almighty did but prevail more with the Generality then the fear of a suite at Law, or a Penalty of twenty shillings. If interest will prevail

with a man, to judge a thing commanded him to be against the common good, when it is for it, the same interest of his it is like with such a man would prevaile still upon him not to observe the Law, though he were bound in Conscience to it.

In the seventh place, then those few honest persons that would observe a Law if they thought themselves bound in Conscience to it, not withstanding their private interest be against it, will likewise make the like Conscience in their judging of a Law, so as not to be byassed by their particular concernment to think otherwise of it, then does comport with the publick advantage. And this in effect will come to the same issue.

In the last place. I will offer you one president to pinne the basket. It pleased God in the late times that this case became Dr. *Saunderſons* own case. The Act of Uniformity bound the Minister to read Common Prayer. This Law the Dr. acknowledges to be of force, for all the Times; but if he observes the Law he must loose his living. Upon this he considers of the Act, and when he looks on the *immediate particular* end of it, he can find nothing but that their remains obliged to it. He then looks on the *general* and *ultimate* end, and that he conceives

right

right to be the publick good, wch is intended or is to be supposed to be intended in all laws. Upon this end he comes to the consideration whether all circumstances being weighed, it be conducive for the common good for him to observe this Law or not: and being in the result fully perswaded in his own mind that the benefit to the publick could no wayes countervail his particular loss and suffering, he concludes it lawful by the neglect of that Law to retain his living. There is a sober person having read my Case shewed me a Manuscript of the Doctors (but would not let me write any thing out of it) for the confirmation of my judgement. I cannot relate either the whole matter or words of it, but these two things I affirm for truth in it. That he comes off upon the consideration of the general end of the Law, the publick benefit: and judges himself whether his observing that Law were conducive to that end in reference to the determining his own practice. And here I have (I account) my full weight for myself, and think I had best to fetch the poor man before also, who finding no sufficient relief from this Authour about his Cottage, may meet with it from this instance to his satisfaction

satisfaction, and it will come to this, whic
seems a little more then I have yet quite sa
that not only when a Law is politically e
vil, but when it is good in regard of its ge
neral observation, yet if a man be perswa
ded fully in his Conscience upon such du
considerations and cautions as he ought t
take, that his particular keeping of it under
the present circumstances he lyes, is not so
much for the common good really as his
not keeping of it is (which I will take to
be plainly this poor mans case instanced,
who if he holds not his house must with his
Family presently fall on the Parish), he is
not to charge his soul with sin for his
wholesome breach of it. After this I will
yet subjoyn a little more in reference also
to some others. When the Apostle gives
us this precept, *obey those that have the rule
over you*, though there be no words added by
way of exception, it is to be supposed the
things they command are for our edification,
this being a condition necessarily implyed
to all rightful obedience, that the Ruler
hath authority in what he injoynes. But
the Minister hath authority only for mens
edification, and hath none in things against
their spiritual good, *according to our authority*
(sayes

(sayes the Apostle) *for edification, not destruction.* The Case is the same with the Magistrate. His commands that have authority must be to our *civil* good. It is a mistake therefore (how ingenious and ordinary soever it may seem) in some that say, the people have liberty to judge indeed, whether a thing commanded be *lawful*, but not at all whether it be *convenient*. That by all means they count it to be denyed, as if the allowing any such thing would presently (as this author fancies too) subvert all Government. These Persons I perceive therefore distinguish not between judging what is fit for the general, or universality, which judgment indeed is proper to the supream Magistrate: and judging what is fit for a mans self only to doe. *All things are lawful for me* (sayes the apostle) *But all things are not expedient. I will not be brought under the power of any.* a Christian judges for himself of both these; of the *lawfulness* and of the *expedience* of his own actions. If this be not granted then must he be brought *under the power* of indifferent things, which he ought not to be: and then does he *submit* himself unto the *Ordinance of man* or the *human Creature* as *his* servant and not as *free*

and

and *as the Servant of God.* Again these persons have not yet considered what I have been telling still in these papers, that this liberty is assumed of us in reference only to the Conscience or to our obligation *in foro interiori*; and that while the outward man is still acknowledged to be *bound*, there is no danger at all to Government in the matter. On the contrary side there is this intollerable snare, or evil consequence does follow on the denyal hereof, that every time any human Law (the matter whereof is not forbidden of God) is not observed, the subject must sin, and consequently if he lives and dyes knowingly and wilfully, in his neglect he must be damned, I will yet propose therefore one or two instances. There is a Statute in *Henry* the eights time (if I mistake not) which remains unrepealed, that no man shall brew with Hopps. I do ask hereupon whether there be any Brewer in this Nation knowing of this, that can be saved? I do not find my Debator can answer me this question; and I do not doubt but there are many Brewers that are honest men and *good Christians*, as well as I believe he is. If you will say that this Law now is antiquated through disuse; I will ask then what

what think you of those Brewers that disused it at first? was they all damned necessarily who willfully brought it into disuse? the Case is a frequent Case as to all the like Laws, and you must come at length to this, that those who observed not this Law at first did judge it was not good for the Nation, or not fit to be kept: and upon that judgement are to be justified. It follows then both that a Law against the common good binds not the Conscience: and that every man for himself may judge whether it be so or no in reference to his own acting. Another instance shall be this, suppose a Father or a Master lays some strict charge on his Son or Servant to lay out a Thousand pounds on a Commodity which is more perhaps (but for his Credit) then he is worth by half. This Son or Servant in going to do it, hears of the growing or coming in of this Commodity by great quantities in some parts of the Kingdome, and upon his own discretion alone and good consideration of what may fall out, forbears, his Father or Master perhaps now at present is grievously chafed: but within few days the price of the Commodity falls half, and then he sees that if he had been obeyed

he

he had been undone. From hence do there appear not only the neceſſity, but be nefit, of allowing a judgement of diſcretion unto Perſons of capacity, under the com mands of their Superiours; and that I ſay not meerly to judge whether the thing commanded be lawful or unlawful in re ference unto God whereof there is no queſtion: but whether it be convenient or inconvenient to that end or outward good which by that command is deſigned. It appears alſo from both theſe inſtances, that the commands of men do nor by vertue of the fifth Commandement it ſelf bind the Conſcience *immediately* and *abſolutely*, but mediately and *ex hypotheſi*, to wit upon ſuppoſition thoſe commands are good, *human laws* Dr. *Taylor* will have it *bind the Conſcience directly and properly*. I do not love to diſpute about terms, but if any think he intends *immediately*, he is out, for they do bind only by the intervention of Gods will, he argues, the authority of the Magiſtrate is Gods authority. I anſwer the authority which is in the perſon of the Magiſtrate as Gods Miniſter is Gods authority, and binds directly and immediatly to *ſubjection*: but the *commands* of the Magiſtrate have not Gods authority

thority, unless the things commanded be agreeable to his will, and then it is by the intervention of his will, I say, that the Conscience is bound to obedience. A third thing appears that the Conscience of man is not bound by vertue of Gods authority unto *every* command of our Superiors though the thing commanded be in a matter sometimes which of it self or its own Nature, is indifferent because the consideration then of the external commodity, or discommodity only, could not justifie the breaker of any of them. If as soon as a Father or Master had forbidden any thing, the Commandment of God took place *immediatly*, and he thereby is to be reckoned to forbid it too, this Son or Servant might not break such a command though he did gain a thousand pounds, or though either that Master or Father should be undone by it There be several examples might be fetch't from Histories of great *Commanders* and *Embassadors* that to achieve some great exploits have been forc't to leave the *instructions* of their Princes, for which though at their return they have begged their pardon (out of form) as being obnoxious to the Law, yet have they had that Conscience of their own fact toward

wards them and toward God, as not only to be free from sin, in that disobedience, but to expect some signal reward for the service of such transgressions.

CAP. ULT.

THus much for his grand exception, I must now look out for others, or any passage else that requires Animadversion.

At the first there comes to my view in General, the cavilling way which he uses toward me, as if when a Man wanted a *good answer*, he should shew an *ill Spirit*, which I would not believe in this Authour. I perceive he pretends often that the Apologist doth wrong him and so accuses him of *falsifyings* and *impertinences*, which are his frequent words

words: But in the mean while I wonder he ſhould not ſee how notoriouſly he is guilty of both theſe fine things himſelf. *It would be no great matter* (ſays he) *if the Caſuiſt imitated not theſe men only in their phraſe, and not in their weak reaſonings*, and then produces an obſervation I have of providence in *tranſitu*, as if I argued ſomething from thence, which if he could tell what, he would confute no doubt, and he well might, wherefore it is manifeſt I lay that paſſage down and make no reaſoning at all upon it, neither do I imitate any bodies phraſe, nor tye my ſelf to any part. And if this then be not *falſifying* neither ſhall his four or five ſides after about Image worſhip, be any *impertinency*: nor his ſix or ſeven pages in another place about the Taxes and Inſurrections there has been in this Nation: no though he ſhould tell you the whole Life and Death of *Wat Tyler*, and *Jack Straw*, with a more perfect Narration yet of that Dr. *Standiſh*, unto whom *John Lincoln* the *Broker* came *when he was to preach*; the Spittle *on a Monday in Eaſter week*. This ſhould alſo be no impertinency, but a forceable confutation of whatſoever is ſaid by the Apologiſt or me. He may next tell us any

other story as well out of the Chronicles. Of *Jack Cade*, and his Cozen *Mortimer*. Of *Lambert Simnel* and the Lady *Margrit* his Aunt. How might he have mauld us with the Relation of *Perkin Warbeck*, and *Thomas Flammock*, and *Robert Ket* with his Oak of Reformation, and then kil'd us quite dead with an arrow out of *Robin Hoods* bow? In the Reign of *Richard* the first there was the noble Earl *Robin Hood*, and one little *John*, and an hundred stout Fellows more, robbed the Passengers upon the High-way. And what indeed is it that we may well think of such a Roving faculty we see in this Authors last books, but that the Mans pen hath got a *loosenes*, and that is the reason he hath so bespattered the poor Apologist, whose ill luck and my good one it was, that he came between him and me. This is the reason that makes him come *abroad* so often, in a Debate, a *continuation* of that debate, a *continuation* of that continuation, an *appendix* to that continuations continuation, and a *Post-script* to that appendix to that continuation, of the continuation of the *Friendly Debate*. *Nec dum finitus Orestes*. I must needs say here, I have been tempted to use some expressions that perhaps might be grateful to many who

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are willing to have a person (as they are apt to speak) met with in his kind, but I remember there is a self-denyal to be used in our writings as in our conversations, and there is an office of Love and honour we owe to worthy persons; and when I may use such expressions as these I think from the example of *Elijah*, I must use no bitterness from the command of the Apostle, nor any word from an offended mind from the example of our Saviour and Lord.

The next thing which presents it self to my notice is a passage which hath a malignant aspect on my opinion, or on what I have said, yet shall be found but a friend to it. I am sensible now and then of a fearing hint from this engaged man, I choose to be a little free with him, seeing he hath chalked out that way to me, but do reflect again on that word as having too aptly or truly expressed the thing, whether I had best let it stand. By a fearing passage I understand any such as reflects any thing upon me, which seems to him to render me obnoxious, besides the being slighted above what is just. Nevertheless when I perceive he speaks out of ignorance, that is out of the want of a fuller understanding in this particular mat-

ter, of what he reproves, I am sustained with my own opinion and the integrity of it. Although too, while he contents his knowledge so superior, it is all one for me, to taste his Spirit. When I say ignorance, to wit hitherto, in reference to this point, I understand not this person to be an ignorant person. No I hold him to be a learned Man, of very much ability, and the least of his sufficiency I take to be for dispute. I compare not my self with him. I know the shortness of my houshold stuff yet this have I, that when a particular point gets into my head, it cost's me more thoughts usually then others will bestow upon it, and consequently ought not in every thing I say, be so readily contemned. In the most points that ever I studied I could arrive ordinarily but to this, that there is reason on both sides. That to be dogmatical is not safe. I do sometimes speak for a thing out of *courage*, to bear it up against the stream, rather then out of pride. I have scarce ever come up to so much confidence in any point as I have in this in good earnest, and if I shew it too much though i be out of the simplicity of my heart, I could help it if I would, but that I think the world requires it, and the matter

will

will bear it, for I am my ſelf a peice of duſt. The paſſage is this, *The Caſuiſts principle if perſued will prove the very ſame with that in the perverſe meaning of it ſo much envied up, when all our miſchiefs began, ſalus populi ſuprema lex, for the right underſtanding of which maxime I refer you to the laſt Lecture of Dr. Saunderſon.* It is very much that this perſon ſhould ſee at firſt glimps upon what foundation all that I ſay does ſtand, and that this foundation is made good by Dr. *Saunderſon*, and yet that he ſhould go to put ſuch a ſlur as this on it, without any good conſideration or honeſty.

As for the maxime which *in the words* is fetcht from *Cicero de legibus*, out of what old Roman Law ſoever he had it, *in the truth* it is no leſs antient then Magiſtracy or Government it ſelf, and ſhall ſtand ſo long as there is any in the World. There be ſome have abuſed the holy Goſpel and turned it into wantonneſs, but the abuſe of the Goſpel is no cauſe ſufficient to throw off the Goſpel. No more is the abuſe of this maxime ſufficient reaſon to hinder any the patronage of it. You may as well lay aſide the Goſpel in Religion, as this truth out of Politicks, without which neither any ſociety

or Common-wealth, or the World it self could ſtand. I do hugely like the deſign of this Dr. in that Lecture which is the vindication of that Maxime, that every one may ſafely imbrace it, and I aſſent to all ſo far as I remember he hath ſaid of it, but yet I muſt needs ſay, I think not the Lecture moſt ſufficient of his Lectures, who appears rather as himſelf accounts, ſomething out of his proper ſtudy, when he is drawn upon it.

That which he ſayes is no leſs truth then obvious, that under the word *populus* we muſt comprehend the ſupream Magiſtrate as well as the Subject. *It is trite*, that *Plebs* and *Populus* in Political Writers are diſtinguiſhed, and this may be moſt convincing that in *Ciceroes* time (whoſe words theſe are) the Roman people was a Common-wealth, ſo that the ſupream Magiſtracy it ſelf lay in the body of the people, ſo far it is from any Juſtice or Right, that any ſhould make uſe of this maxime to ſuppreſs the cheif Magiſtrate by it. The good of the people in their publick capacity is the good of the Common-wealth. A Common-wealth conſiſts in the order of ſuperiority and inferiority. The Common-wealths good then is the good of Magiſtrates and Subjects, the common

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intereſt of one is alſo the Intereſt of the o-ther. There being no conſequence deduci-ble therefore from this maxime for the peo-ple to riſe up againſt the King any more then againſt themſelves, or their own wel-fare, There is one queſtion I think wanting in that Lecture of the Dr. whereof neither he (as the truth is) nor this man have yet caſt any right account, It is this, How comes it to paſs that when this maxime doth warrant the ſubject in not obeying ſome Laws which are made by the Magiſtrate, it will by no means warrant any ſubject to riſe againſt or reſiſt the Magiſtrate if he will execute them upon him? The anſwer to this will be like the invention of making the Egg ſtand an end, that is ſo apparent and eaſie, that you will wonder it ſhould not be ſeen already by every body. When the common good then or the good of the community, is ſaid to be the ſupream Law, it muſt be underſtood moſt undoubtedly in reference to thoſe laws which are made for the community. *Ex illis hæc ſuprema lex eſto.* If there be any one of ſuch conſequently does clash with this, which is the cheif or ſuperior to them all, that is, if there be any law made which is not indeed for the common good, then is the ſubject manifeſtly diſcharged by ver-tue of this maxime from any obligation to it, in the point of equity or conſcience. But

it is as manifeſt likewiſe, that we are not to underſtand this maxime in reference to Gods Laws. To wit, The common good is the ſupream Law to all other Laws of the *State*, to all human Laws, which are made to that end, the publick good of civil ſociety: but it is not ſupream to Gods Laws, or to any Law of God religious or moral which are made to another end, to wit the glorifying of God, not in order to our civil happineſs, but our everlaſting ſalvation. When God ſays *Thou ſhalt have no other Gods but me*, a Roman or a Greek might not ſay no it is for the good of our Country that many Gods be worſhipped, and the *common good* muſt take place of other Laws. For beſides that it is falſe to think it for the good of any ſtate, to have more then one God; The Law of the *common good* is to take place over the *Common wealths* Law, or is the *ſupream* Law, I ſay to all *human* Laws, but not to *Gods* Laws, which comes not under any ſubordination to ſuch *good* but do concern the *ſalvation* of Mens ſouls. Now it is the Law or command of God that Magiſtracy be ſet up, that we be in *ſubjection* to the *powers that are*, that is the preſent Magiſtrate that we have, and that we *reſiſt not*. This is no leſs his Com-

mand-

mandment then that we have no other Gods but him. If there be any then will argue we are not obleiged in Conſcience to *obey a Law* which is not for the common good upon the account of this maxime: Therefore we are not obleiged in Conſcience to *ſubjection to the Magiſtrate* if he *rule* not for the *common good* upon account of the ſame, he is greatly miſtaken. Becauſe this maxime as we are to know, was Originally intended ſo is to be underſtood on neceſſity, in reference to the Laws of men, or the Common-wealths Laws only, and not in reference to the Commandments of God. Again, when a humain Law paſſes for the good of the community, the common good being the ſupream rule and meaſure of all, every one judges and ought to judge (upon the pinch of the queſtion) whether the thing commanded be for the common good, that is, whether it be agreeable to the ſupream Law, and according as he judges and believes it to be or no, ſo is he obliged in Conſcience or not to it. But when a Magiſtrate rules not as he ought, and ſo we are free as to his inordinate commands, there is no man may judge whether he himſelf, or the Government it ſelf be for the com-

mon good or no. You will say why? Because *the powers that be* are *of God*, and *his Ordinance*, and whether the Ordinance of God be for our good or no, there is no mortal may question or is to judge. God hath himself declared this that he is *the Minister of God for our good* even *Nero* was, and no man may once offer to determine contrary to Gods declared word, or tell the Almighty he sayes not truth. Consequently when a Law sometimes doth pass that is not for the common good, and a man judging of it according to truth is not obliged in Conscience to *obedience*, yet the Magistrate himself being for our good (God having determined so and mans judgement being confined by his) even by this maxime it self that the common good is the supream Law, he must be still bound to *subjection*. And what now is become of this mans reproach which he hath laid to my charge with so much falshood, and little judgement? as if Dr. *Saunderson* and he were for this maxime in the right sense, and I was for it in the perverse meaning, when it is plain that indeed neither he nor Dr. *Saunderson* (how worthy soever in their parts otherwise) understood this maxime in the full import of it, seeing else he

would

ould have determined the main case no o-
herwise then I do.

And this brings me to another passage of his Debater, which I was willing to reserve ill now, both for the agreement of it here, nd for making a discovery of some of this uthours *strong reasonings*, who counts mine o weak, *It is resolved by the Casuist, that if he Magistrate command any thing for the Peo-les hurt, there lies no obligation upon the Con-cience to obey, and they are made judges of what s for their hurt. If then he require them not o resist and they find this is for their hurt, they re not bound in Conscience not to resist.* Is not his very goodly? Does not the Gentle-man shew us here indeed what a *fathome* it is that he has, as he speaks somewhere? why this can be no less sure then *Bonaventures* Son, or *Bradwardines* brother! *What if the Magistrate should require us not to resist?* If it were the Magistrate only required this, there were no doubt but we might resist if he hurt or wrong us, as well as not obey his Laws if they be for our hurt. But it is Gods Commandment that we *resist not*, and if he shall do us wrong or hurt we must bear it upon that account. It is but suffering *according to his will* and that is the reason why the

the Magistrate and Government it self safe, when the Conscience is yet at liberty avoid, if we can, any unjust, unreasonab noxious, or unprofitable Law for the peop You will say are we not bound to *obey h Laws*, as well as not to resist his authorit I answer, there is this difference, we ha no command from God that says you mu obey this or that particular Law of the Co mon wealth, or that you must indefinite obey them all seeing some may be unjus some wicked, some vain; But there is a La or command from God to be subject to th *powers that are*: whatsoever they are, and a whatsoever they are, that is rightful powe (for else the devil may come in) and tha we must *not resist*. I say moreover that to be ruled by the common good in civil affairs designed by his Minister, I take to be a Law of God of the same Nature as to be subject to the Magistrate, and to fear himself.

After this, there is one passage more I will not pass, because it looks lightly and is a concession against himself, but does not satisfie if the word may not offend) without a farther *remove* upon it. It is this. *It is supposed when a case of intollerable inconvenience*

happens

happens that it being not the intention of a Prince to make his Subjects miserable, he would not have made that Law if he could have foreseen such a mischief, and upon that account *it ceases to be a Law, and looses its obligation.* I remember well that some indeed speak thus, and when any take a Latitude in applying it to an individual case it will come to this, that supposing the Law-giver to consider the circumstances that this or that particular man is in, it is presumed that he would consent to the breach of his Law by that person, and upon this presumption there may be many perhaps that absolve themselves from several peices of obedience, That which may be said for this is, that if the Law-giver is to be supposed not to *intend to make his subjects miserable* by a Law, he is to be supposed not to intend to make *any one* miserable for he cannot simply do the one any more then the other. *Eadem est ratio omnium cujusque & Universorum.* If such a Law makes this or that particular man miserable if he keep it, he will judge it to be the Law-givers intention, that he be dispensed with, that those should observe it who are made happy, or at least not so distressed as he by it. There is something I suppose of solidity in

in this, if we can find out for it a right bo
tom. There is no particular person can sa
if the Law-giver had foreseen this or th
particular mans inconvenience he would no
have made the Law, because Laws in the
nature are confinements and streightnin
to particular persons for the good of th
community. But this he must say, tha
notwithstanding the will of the Law-give
is indeed, that the generality should kee
the Law being for their good, yet it is to b
understood with exception, to such a cas
or cases, as his is. If he can give a reaso
now for this that will hold, it is well. Th
saying he made not his Law to make any
simply miserable is true, but in Relation to
the publick he passed it though some should
be distressed by it: He cannot say therefore
that he made not this Law to make him mi-
serable, but this he may say, that he made
not this Law to make him or any man mi-
serable, but for the advantage of the com-
munity, seeing for the benefit of the publick
any one may be made to suffer dammage,
whereas to make a Law that any might suf-
fer it without advantage to the publick is
unjust. There is necessity then to come
here to my foundation and that is this. That
the general end of every Law and Law-

giver

giver is (or ought to be and so is supposed to be) the publick advantage. When any case then general or particular is such that it is not for the publick benefit that a Law be observed, or that it is more for the publick good that it be not observed rather then observed, the Law-givers intention is to be supposed from the general end, that it should not be obligatory to the Subject. His intention is to oblige us to such a thing for the publick good. But if such a thing in such a case be not for the publick good the obligation ceases being forsaken of his intention.

There is much may be said here, beside what we insist on before from the will of God.

At the close he presents us with the testimonies of two or three learned men for obedience to all lawful commands of our superiours. He might have taken the harmony of confessions, or most Diuines common places, and added as many more as he pleased of greater authority. He might find expressions too as strict as any from some of our *Nonconformist* Divines. But that which is to be answered to all is this, that we are to apprehend such passages to be still spoken

upon

upon ſuppoſition that the Laws or commands of the ſuperiours be good and wholeſome Laws.

They may put in the word *lawfull* only, but under it this muſt alſo be implyed. The honeſt and learned Mr. *Perkins* therefore when he ſpeaks of our duty to the Magiſtrate, does judiciouſly uſe ſuch terms. *We are bound to obſerve the good and wholeſome Laws of the Nation where we live.*

When he and others ſpeaks thus it is plain that in the bottom of their minds they apprehend, that if the Laws and commands of men be not *good and wholeſome* Laws or commands, they are not accordingly bound to them, that is not in Conſcience bound, though the outward man be at the Magiſtrates ſervice. And this I take it is that Light which does even almoſt Univerſally flow into the Soul's of men, at the firſt conſideration of theſe matters, and as it is of Nature, it is from God. But who ſhall judge whether a Law be a good or wholeſome Law or no? This I know may be again askt. It is a good and wholeſome Law I account when the thing commanded be for the common good. And I reply who ſhall judge whether that which be commanded be

lawful

lawful or not? It will be a thing moſt fooliſh to ſay, that he who hath paſſed the Law as good already muſt be judge, for then it might be no queſtion. You will ſay that every man muſt indeed be judge of that. I ſay then that if every man muſt judge whether the thing commanded him in a Law be according to Gods word or not, which is a matter of ſo much more difficulty and concernment to his Soul, and where of the moſt of men are ſo much more indeed uncapable to judge with ſoundneſs, and yet every one muſt judge for himſelf according to his ability in reference to his own practice, why ſhould any ſcruple to have the ſame ſaid in the queſtion whether it be for the common good, being what is eaſier done and a leſs matter? The ſum of the whole ſheets will come to this. The moſt both of Religious and Learned men are at a loſs (through their diſpute and jangling I ſuppoſe when the matter elſe perhaps were more plain) in their conceptions about the obligation of human Laws. Two extreams we hear. The one that they bind not the Conſcience at all; the other, that they bind indefinitely, that is, all bind under pain of ſin. A middle path I have offered in reſolving the caſe. We ſee where

it is the opposer does pinch. They will not allow the subject to be a reasonable agent in *Politicals*, when they cannot deny him to be so in *Morals* and things *Religious*. If they will allow us a judgement of discretion in *Civils*, They must be ignorant, or considernot, that the common good is the supream Law. That the supream must over-rule the subservient. So long as any know not this, they are in darkness and bondage: But the Scintillations of this truth and Doctrine that I here have brought, are the seeds of Light and Liberty to the World. In which liberty the *considering* Christian will *stand fast*, and the tender will *rejoyce in consolation*.

THE END.

Reader,

BEfore *I* ſent theſe Sheets to the Preſs, at firſt I ſhewed them a Learned Dr. a perſon of note, as of ability, and I received his thoughts of them in the words which you find in the beginning. Being returned from the *Printer*, *I* had opportunity to ſhew them to another of the like eminency, and *I* received preſently a full Sheet from him upon the ſubject, I will make bold to ſet down thus much of it which follows.

The Office (*to wit, of the Magiſtrate*) and exerciſe or adminiſtration being diſtinguiſhed, you truly ſay that he that is not bound in a particular caſe to obey, yet may be a Subject ſtill (which is the relation of one bound to ordinary obe-

dience) and Rebellion which is the casting off this subjection, is forbidden notwithstanding a particular Law may be disobeyed.

A Law made against God or the safety of the Commen-wealth is no Law *in sensu uni voco* but it is *in sensu æquivoco vel analogico*, and does not properly bind the Subject.

All men in their wits (that are masters of such discourse) are agreed that *judicium est vel publicum vel privatum. Publicum est vel civile; Magistratus, per gladium exequendum: Vel ecclesiastum, Pastorum, per verbum & claves exequendum: Et privatum discretionis est omnium.* No Man ever obeyed without it, for *authoritas imperantis agnita*, is the *objectum formale obedientiæ* and answereth the question *Quare obedis?*

The Magistrate being by Office in-

trusted

trusted with the *bonum publicum* the Subject is not called to try every one of his Laws whether they are suited to the *bonum publicum* or not, much less to be critical and busie out of his place.

But being not bound to be blind or or careless in a notorious case or such of which he hath full and lawful cognizance, he may and must discern what command is against the common good.

R. B.